



City of  
Gallaway Tennessee

**Zoning  
Ordinance**

# Zoning Ordinance Gallaway, Tennessee

Adopted February 2006

## REVISIONS

<b>Revision Date</b>	<b>Chapter</b>	<b>Section</b>	<b>Ordinance Number</b>
10/22/2015	Chapter 2	11-202	Ordinance 31-2015
01/14/2016	Chapter 11	11-1105 G(2)	Ordinance 33-2016

**ZONING ORDINANCE  
GALLAWAY, TENNESSEE**

Adopted February 2006

GALLAWAY ZONING ORDINANCE  
PREPARED BY THE  
GALLAWAY MUNICIPAL PLANNING COMMISSION

ELNA WATSON, MAYOR

DONALD JAMES, CHAIRMAN

RICHARD YOUNG, SECRETARY

T.B. HALL, VICE-CHAIR

RON GRUNEWALD

PATRICIA GARRETT

ASSISTED BY THE  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
LOCAL PLANNING ASSISTANCE OFFICE  
WEST TENNESSEE OFFICE  
JACKSON, TENNESSEE

# TABLE OF CONTENTS

<b>CHAPTER 1 GENERAL PROVISIONS</b>		<b>PAGE</b>
11-101	TITLE, PURPOSE, AND LEGISLATIVE ENACTMENT .....	1-1
11-102	CONSTRUCTION OF LANGUAGE AND DEFINITIONS .....	1-4
11-103	LEGAL STATUS PROVISIONS .....	1-16
11-104	EXCEPTION AND MODIFICATION .....	1-18
11-105	GENERAL PROVISIONS FOR ALL DISTRICTS .....	1-19
<b>CHAPTER 2 ESTABLISHMENT OF DISTRICTS, USES PERMITTED IN EACH DISTRICT AND PROVISION FOR OFFICIAL ZONING MAP</b>		
11-201	ESTABLISHMENT OF DISTRICTS.....	2-1
11-202	USES PERMITTED IN EACH ZONING DISTRICT IN GALLAWAY .....	2-2
11-203	PROVISIONS FOR OFFICIAL ZONING MAP .....	2-16
11-204	RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.....	2-17
11-205	MANUFACTURED HOMES.....	2-18
<b>CHAPTER 3 PROVISIONS FOR RESIDENTIAL DISTRICTS</b>		
11-301	STATEMENT OF PURPOSE .....	3-1
11-302	AR AGRICULTURAL RESIDENTIAL DISTRICT.....	3-1
11-303	R-1 LOW DENSITY RESIDENTIAL DISTRICTS .....	3-4
11-304	R-2 MEDIUM DENSITY RESIDENTIAL DISTRICTS .....	3-6
11-305	MH - MOBILE HOME PARK RESIDENTIAL DISTRICTS.....	3-12
<b>CHAPTER 4 PROVISIONS FOR COMMERCIAL DISTRICTS</b>		
11-401	STATEMENT OF PURPOSE .....	4-1
11-402	NC - NEIGHBORHOOD COMMERCIAL DISTRICTS .....	4-1
11-403	GC - GENERAL COMMERCIAL DISTRICTS.....	4-4
<b>CHAPTER 5 PROVISIONS FOR INDUSTRIAL DISTRICTS</b>		
11-501	STATEMENT OF PURPOSE .....	5-1
11-502	I - INDUSTRIAL DISTRICTS.....	5-1
<b>CHAPTER 6 PROVISIONS FOR FLOOD HAZARD DISTRICTS</b>		
11-601	STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES .....	6-1
11-602	DEFINITIONS.....	6-2
11-603	GENERAL PROVISIONS.....	6-10
11-604	ADMINISTRATION.....	6-11
11-605	PROVISIONS FOR FLOOD HAZARD REDUCTION.....	6-14
11-606	VARIANCE PROCEDURES .....	6-20
<b>CHAPTER 7 OFF-STREET PARKING AND LOADING REGULATIONS</b>		<b>PAGE</b>
11-701	OFF STREET PARKING .....	7-1
11-702	LOADING SPACES .....	7-3
<b>CHAPTER 8 PROVISIONS GOVERNING NON-CONFORMING USES</b>		
11-801	STATEMENT OF PURPOSE .....	8-1
11-802	PROVISIONS GOVERNING NONCONFORMING USES .....	8-1
11-803	NONCOMPLYING BUILDINGS OR OTHER STRUCTURES.....	8-4
<b>CHAPTER 9 ADMINISTRATION AND ENFORCEMENT</b>		
11-901	ORGANIZATION AND PURPOSE .....	9-1

11-902	COMMISSION OF ZONING APPEALS.....	9-1
11-903	ZONING VARIANCES .....	9-2
11-904	CONDITIONAL USE PERMITS.....	9-4
11-905	ANENDMENTS .....	9-7
11-906	REMEDIES AND ENFORCEMENT.....	9-9

**CHAPTER 10 LANDSCAPING SITE DEVELOPMENT STANDARDS**

11-1001	STATEMENT OF PURPOSE .....	10-1
11-1002	DEFINITIONS.....	10-1
11-1003	TREE PLANTING.....	10-1
11-1004	TREE PROTECTION .....	10-2
11-1005	MAINTENANCE.....	10-2
11-1006	PLANTING REQUIREMENTS.....	10-2
11-1007	LANDSCAPING REGULATIONS FOR MULTI-FAMILY (> 3 UNITS), COMMERCIAL AND INDUSTRIAL SITES .....	10-2
11-1008	TREE LIST .....	10-3

**CHAPTER 11 PROVISIONS GOVERNING SIGNS**

11-1101	STATEMENT OF PURPOSE .....	11-1
11-1102	DEFINITIONS.....	11-1
11-1103	REGULATIONS AND STANDARDS .....	11-5
11-1104	PROHIBITED SIGNS .....	11-11
11-1105	TEMPORARY SIGNS.....	11-12
11-1106	EXEMPTIONS .....	11-13
11-1107	ILLEGAL, NONCONFORMING, AND UNUSED SIGNS.....	11-14
11-1108	APPEALS TO THE COMMISSION OF ZONING APPEALS .....	11-17
11-1109	PERMITS.....	11-18

# CHAPTER 1

## GENERAL PROVISIONS

### 11-101. TITLE, PURPOSE, AND LEGISLATIVE ENACTMENT

#### A. Long Title

An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, to provide for the establishment of districts within the corporate limits of Gallaway, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings and other structures for trade, industrial, residence, recreation, public activities and similar purposes to include a special district for area subject to flooding; to provide regulations governing nonconforming uses and structures; to provide for a Commission of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

#### B. Short Title

This ordinance may be cited as the Zoning Ordinance of Gallaway, Tennessee. The map portion may be cited separately as the Zoning Map of Gallaway, Tennessee.

#### C. Repeal

The existing zoning regulations of the City of Gallaway, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of any action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this Ordinance.

#### D. Legislative Enactment

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

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

WHEREAS, the City Commission of Mayor and Commissioners, pursuant to the provisions of Section 13-4-101 of the Tennessee Code Annotated, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

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

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

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

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

WHEREAS, all the requirements of Sections 13-7-201 through 13-7-210 of the Tennessee Code Annotated, with regard to the preparation of the report of the Planning Commission and subsequent action of the City Commission of Mayor and Commissioners have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF GALLAWAY, TENNESSEE:

#### E. Intent and Purpose

This Ordinance is enacted pursuant to Title 13 of the Tennessee Code Annotated for the following purposes:

1. To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
2. To divide the City into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing and other specified uses;
3. To protect the character and maintain the stability of residential, business, commercial and manufacturing areas within the City, and to promote the orderly and beneficial development of such areas;
4. To provide adequate light, air, privacy, and convenience of access to property;
5. To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health;
6. To establish building lines and the location of buildings designed for residential, business, commercial, manufacturing or other uses within such lines;
7. To fix reasonable standards to which buildings or structures shall conform;
8. To prohibit uses, buildings or structures that are incompatible with the character of development or the permitted uses within specified zoning districts.
9. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
10. To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;
11. To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare;
12. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district, by regulating the use and the bulk of buildings in relation to the land surrounding them;
13. To conserve the taxable value of land and buildings throughout the City;
14. To provide the gradual elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
15. To provide for the condemnation of such nonconforming buildings and structures and of land as the Commission of Mayor and Commissioners shall determine is necessary or appropriate for the rehabilitation of the area blighted by such buildings or structures;
16. To define and limit the powers and duties of the administrative officers and bodies as provided herein;
17. To prevent construction in areas designed as flood hazard areas unless suitably protected.
18. These general purposes include the specific purposes stated in the various chapters throughout this ordinance.

## **11-102. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

### **A. Rules for Construction of Language**

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

1. The particular shall control the general.
2. The word "shall" is always mandatory and not discretionary.
3. The word "may" is permissive.
4. The word "lot" shall include the words "piece" or "parcel".

5. The word "building" or "structure" includes all other structures, or parts there of, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
6. In the case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration or table, the text shall control.
7. The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a conditional use by special permit pursuant to 11-906 of this Ordinance, and all other applicable provisions.
8. Words used in the present tense shall include the future, and words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary.
9. All public officials, bodies and agencies to which reference is made are those of the City of Gallaway, Tennessee.

B. Definitions

Except where definitions are specifically included in various articles and sections, words in the text or tables of this Ordinance shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail. In any case, the Commission of Zoning Appeals shall have the right to interpret the definition of any word.

Accessory - An activity or structure that is customarily associated with and is appropriately incidental and subordinate to a principal activity and/or structure and located on the same zone lot.

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

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

Basement - A story whose floor is more than twelve (12) inches, but not more than one-half (1/2) of its story height below the average level of the adjoining ground (as distinguished from a "cellar" which is a story more than one-half (1/2) below such level).

Building - A structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of a building. Where roofed structures are separated from each other by party walls having no unprotected openings, each portion so separated shall be considered a separate building.

Building Height - The vertical distance from the highest point on a structure, excepting belfries, spires, flagpoles or antenna to the average ground level of the grade where the walls or other structural elements intersect the ground.

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

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

Cellar - (See Basement)

Clinic - An establishment where persons are given medical, dental or surgical treatment by one but not more than four physicians or dentists with no patients lodged overnight.

Clinic, Small Animal - An establishment where small animals, which can usually be identified as pets, are medically treated or groomed and Commissioned for periods of less than one week, and where the entire operation of the establishment is restricted to the enclosed portion of the structure in use.

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

Conditional Use - A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance,

prosperity or general welfare. Such uses may be permitted in such zoning division or district as conditional uses, if specific provision for such use is made in this Ordinance.

Curb Level - The mean of the elevations of the side lot lines extended to the street line.

Dwelling, Attached - A building containing not more than two dwelling units, attached at the side or sides in a series of three or more principal buildings, each containing not more than two dwellings units. At points of attachment, such buildings shall be separated from each other by fire walls extending from footings through roofs without openings which would permit the spread of fire from one building to another. Such buildings shall each have a separate lot with dimensions meeting regulations for the district, or be so located on land in the same ownership that individual lots meeting district requirements could be provided, in which case dimensions of such land shall not be reduced below those required for provisions of separate lots. The term-attached dwelling is intended to apply to townhouses, patio or atrium houses, or any form however termed which conforms to this definition.

Dwelling, Mobile Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "mobile home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "mobile home" does not include park trailers, travel trailers, and other similar vehicles.

Dwelling, Modular Home - A single family housing unit that is constructed basically as a conventionally built wood frame house except it is built at a factory and is transported to the site on which it will be permanently located. The modular home may not have a permanent steel chassis.

Dwelling, Multi-Family - A building containing three or more dwelling units. The term includes cooperative apartments, condominiums and the like. For purposes of these regulations, regardless of how rental units are equipped, any multi-family dwelling in which units are available for rental partly on a monthly basis and partly for a shorter time period, but with less than thirty (30) percent of the living units being occupied on a less-than-monthly basis, shall be considered a semi-transient residential activity.

Dwelling, Single-Family - A building containing only one dwelling unit. The term is general, including such specialized forms as single-family detached, single-family semi-detached and single-family attached houses (town houses, patio and atrium houses and the like if containing only one family). For regulatory purposes, the term is not to include mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of portable or temporary housing.

Dwelling, Single-Family Detached - A single-family dwelling entirely separated from structures on adjacent lots.

Dwelling, Townhouse - A townhouse dwelling is an attached single- family dwelling constructed in a row of three (3) to eight (8) single-family dwellings, each dwelling being separated from the adjoining dwellings in each story by adjoining fire walls, without openings extending at least from the footing through the roof, as hereinafter set forth and each dwelling having independent access to the exterior in the ground story.

Firewalls shall be a minimum of eight (8) inches thick and shall be of brick, 4-hour fire rated concrete block or reinforced concrete construction only and shall extend a minimum of three (3) feet above the roof at all points.

Dwelling, Two-Family - A detached residential building containing two dwelling units designed for occupancy by not more than two families.

Dwelling Unit - A room or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

Family - One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five persons.

Flood - A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the flood channel.

Flood Channel - A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

Flood Obstruction - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire fence, rock, gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, water course, or regulatory flood-hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

Floodplain - The land adjacent to a body of water that has been or may be hereafter covered by floodwater including, but not limited to the regulatory flood.

Flood Profile - A graph or a longitudinal profile showing the relationship of the water-surface elevation of a flood event to location along a stream or river.

Floodproofing - A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood-hazard area.

Flood Protection Elevation - The elevation of the regulatory flood on all streams and waterways.

Flood, Regulatory - The computed 100-year flood.

Floodway - The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream including, but not limited to flood flows associated with the regulatory flood.

Floodway Fringe Area - Lands lying outside a designated floodway but within the area subject to inundation by the 100-year flood.

Floor Area - The total of the gross areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof, without walls, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto required in this Ordinance.
2. In the case of non-residential facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

Floor Area Ratio - The total floor area on a zone lot, divided by the lot area of that zone lot. (For example, a building containing twenty thousand (20,000) square feet of floor area on a zone lot of ten thousand (10,000) square feet has a floor area ration of 2:0).

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

- A. No one other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than fifteen (15) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
- D. No home occupation shall be conducted in any accessory building;
- E. The sale of merchandise in connection with a home occupation shall not exceed 25% of the said home occupation.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;
- G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is

conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.

#### Incidental Alterations

1. Changes or replacements in the nonstructural parts of a building or other structure, without being limited to the following examples:
  - A Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;
  - B A minor addition to the exterior of a residential building, such as an open porch;
  - C Alterations of interior non-load-bearing partitions in all other types of building or other structures;
  - D Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits; or
2. Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
  - A Making windows or doors in exterior walls;
  - B Replacement of building facades having non-load-bearing capacity;
  - C Strengthening the floor load-bearing capacity, in not more than ten (10) percent of the total floor area, to permit the accommodation of specialized machinery or equipment.

Land With Incidental Improvements - A tract of land which contains improvements including buildings or other structures having a total assessed valuation of five thousand dollars (\$5,000) or less.

Landscaping - The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials provided that terraces, fountains, retaining walls, street furniture sculptures, or other art objects, and similar accessory features may be included as landscaping if integrally designed.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

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

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Area - The entire area of a lot.

Lot Coverage - That portion of a lot which when viewed directly from above would be covered by a building or any part of a building.

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

Lot Line - A line marking the boundary of a lot.

Lots Line Equivalent - A straight line established for the purpose of determining the location and depth or width of a required yard and which either:

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

#### Lot Measurements

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

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register, or a lot or parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot Types - The diagram (Figure 1) on the following page illustrates terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

In the diagram, A - Corner Lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

B-Interior Lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C-Through Lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.

D-Reversed Frontage Lot defined as a lot on that the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reverse frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

Mobile Homes - See Dwelling, Mobile Homes.

Mobile Home Park - An area where two (2) or more mobile homes or trailers can be and are intended to be parked, designed or intended to be used as temporary or permanent living facilities for two or more families.

Mobile Home Space - A plot of ground within a mobile home park, designed to accommodate one (1) mobile home, and which has water, sewer and electricity available at the space.

Mobile Home Stand - That part of an individual mobile home space which has been reserved for the placement of the mobile home.

Noncomplying -

1. Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or
2. Any lawful use other than a nonconforming use, which does not comply with any part of any one (1) or more of the applicable regulations pertaining to:
  - (a) Location along district boundary; or
  - (b) Accessory off-street parking and loading;

Either on the effective date of this Ordinance or as a result of any subsequent amendment.

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

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

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

Principal Building - A building that contains the principal activity or use located on a lot.

Profession (Professional Office) - The term profession, as used in this Ordinance, is limited in its application to physicians dentists and surgeons, lawyers, members of the clergy, architects, and engineers, or other persons holding advanced degrees from institutions of higher learning in the field in which they practice. The term is not intended to include insurance agents, insurance adjusters, realtors, photo studios, beauty parlors, barber shops, dance schools, business schools or any persons engaged in sales or trade. In permitting professional offices as home occupations, and only as accessory uses in certain districts, it is intended that such offices shall be subject to limitations placed on home occupations generally, but that only offices occupied by persons engaged in professions, as herein defined, shall be permitted.

Required Yard - That portion of a lot that is required by the specific district regulation to be open from the ground to the sky and may contain only explicitly listed obstructions.

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

1. Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or

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

Restaurant - An establishment where food is ordered, prepared and served for pay.

Semi-Transient Residential Establishment - An establishment where lodging is provided for compensation partly on a monthly or longer basis and partly for a shorter time period, but with less than thirty (30) percent of the living units being occupied on a less-than monthly basis, but excluding institutions living arrangements involving the provision of specific kinds of forced residences, such as nursing homes, orphanages, asylums, and prisons.

Setback Line - A line running parallel to the street which establishes the minimum distance the principal building must be setback from the street line.

Story - A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

1. A basement or cellar if the finished floor level directly above is not more than six (6) feet above the average adjoining elevation of finished grade.
2. An attic or similar space under a gable, hip or gambrel roof, the wall plates of which or any exterior walls are not more than two (2) feet above the floor or such space.

Street - A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property. The word "street" shall include the words "road", "highway", and "thoroughfare".

Street Line - The property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the side of the sidewalk furthest from the traveled street shall be considered as the street line.

Structure - Anything constructed or erected, the use of that requires a permanent location on the ground or attachment to something having a permanent location on the ground. This includes but is not limited to buildings, towers, smokestacks and over head transmission lines.

Travel Trailer - a travel trailer, pick-up camper, converted bus, tent-trailer, tent or similar device used for temporary portable housing or a unit which:

1. Can operate independent of connections to external sewer, water and electrical systems;
2. Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or
3. Is identified by the manufacturer as a travel trailer and/or is designed as a travel trailer.

Travel Trailer Park - Any plot of ground upon which two (2) or more travel trailers, occupied for camping or periods of short stay are located.

Use - The purpose for which land or water or a structure thereon is designed, arranged, and intended to be occupied or utilized or for which it is occupied or maintained.

Use and Occupancy Permit - A written permit issued by the building inspector required before occupying or commencing to use any building or other structure or any lot.

Use, Public - Any use that is under control of a unit of general-purpose government or governmental agency.

Use, Recreation - Any use of land or water and facilities provided for the enjoyment of the general public.

Use, Semi-Public - Any use that is under the control of a non-private organization or a non-governmental agency which provides a public service.

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. The measurement of a yard shall be construed as the minimum horizontal distance between the lot lines and any part of the building, such as roof overhang.

Yard, Front - A yard extending across the entire width of the lot between the lot line and the nearest part of the principal building, including covered porches. At least two (2) such yards shall be designated for each corner lot and each through lot, and at least three (3) such yards shall be designated for each through corner lot.

Yard, Side - 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.

Yard, Rear - The yard extending across the entire width of the lot between the rear lot line and the nearest point of the principal building including covered porches.

## **11-103. LEGAL STATUS PROVISIONS**

### **A. Interpretation**

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

### **B. Relationship of Other Laws and Private Restrictions**

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

### **C. Ordinance Provisions Do Not Constitute Permit**

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

### **D. Provisions are Cumulative**

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

### **E. Separability**

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

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

### **F. Application of Regulation**

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

### **G. Scope of Regulations**

#### **1. New Uses, Lots, Buildings or Other Structures**

Upon the effective date of this ordinance any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this ordinance.

#### **2. Existing Uses, Lots, Buildings, or Other Structures**

(a) Any existing uses legally established prior to the effective date of this ordinance that does not comply with its provisions shall be subject to the nonconforming use provisions in Chapter 8 of this ordinance.

(b) Any existing lot, parcel, building, or other structure legally established prior to the effective date of this ordinance that does not comply with its provisions, other than use provisions, shall be subject to the non-complying regulations in 11-803 (B) of this ordinance.

3. Alteration of Existing Buildings and Other Structures

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

H. Effective Date

This ordinance shall be in force and effect from and after its passage on third and final reading and adoption, the public welfare requiring it.

## **11-104. EXCEPTIONS AND MODIFICATIONS**

A. 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 three hundred (300) feet on each side of such lot, is less than the minimum required front yard, but not less than the average of the existing front yard depths on the developed lots. In residential districts, however, the front yard shall in no case be less than fifteen (15) feet in depth.

B. Lot of Record

Where the owner or subsequent owner of a lot of official record at the time of the adoption of this ordinance 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 Commission of Zoning Appeals for a variance from the terms of this ordinance in accordance with Section 11-905 of this code. Such 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 Commission of Zoning Appeals.

C. Adjoining Substandard Lots of Record

Where two (2) or more substandard lots of record with a continuous frontage are under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

D. 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, provided other district requirements are met.

## **11-105. GENERAL PROVISIONS FOR ALL DISTRICTS**

A. General District Regulations

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

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - (a) To exceed the height or bulk;
  - (b) To accommodate or house a greater number of families;
  - (c) To occupy a greater percentage of lot area, where applicable; and,
  - (d) To have narrower or smaller rear yards, front yards, side yards or other open space than herein required; or in any manner contrary to the provision of this ordinance;

3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building or the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading spaces similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

B. Visibility at Intersections

On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2 1/2) and then ten (10) feet. This restriction applies to that area formed by the center lines of streets or a street and a railroad at a distance of one hundred (100) feet from their intersections.

C. Accessory Activity, Use, Buildings, or Structure

No accessory activity, use, buildings, or structure shall be erected in any side or front yard, and no separate accessory building or structure shall be erected within five (5) feet of any property line or other building, except that canopies (attached or unattached), as accessory structures to commercial uses, may be allowed in a front or side yard upon site plan review and approval by the Planning Commission. In the case of such site plan review, the Planning Commission may add such requirements, as it deems necessary to promote the purpose and intent of the Zoning Ordinance. However, in no instance shall the Planning Commission approve the construction of a canopy less than five (5) feet from any street right-of-way line.

D. Minimum Required Yard Area

Regardless of the orientation of buildings, no less than the minimum yards required by the district regulations in which the development is located shall be maintained along the outer boundaries of the lot.

E. Structures to Have Access

Every structure shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

F. Parking, Storage or Use of Major Recreation Equipment

For purposes of these regulations, major recreational equipment is defined to include boats and boat trailers, travel trailers, tent trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwelling and the like. No major recreational equipment shall be parked or stored in any front yard of any lot in a residential district. However, such equipment may park anywhere on residential premises for not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

G. Fences, Walls, and Hedges

Fences, walls and hedges may be permitted in any required yard along the edge of any yard except as prohibited in Subsection 11-105 (B) above.

H. Only One Principal Building on Any Lot

Only one principal building and its customary accessory buildings may hereafter be erected on any lot in AR, R-1, R-2, and R-MH zones. This provision shall not apply to NC, GC, and GI zones provided that all bulk, area, yard and other requirements of the zone are met.

I. Zoning of Annexed Territory

All territory that may hereafter be annexed into the City of Gallaway shall be zoned and classified as a part of that zoning district of the town specified by the Commission of Mayor and Commissioners by ordinance at the time of annexation thereof. The Planning Commission shall make recommendations to the Commission of Mayor and Commissioners on proposed zoning for areas in the process of being annexed. The Commission, before adopting any ordinance zoning the property, shall first hold a public hearing in accordance with 11-907(F) of this ordinance. Upon annexation, the Commission of Mayor and Commissioners shall, by separate ordinance, zone such annexed territory consistent with the public health, safety, convenience, and welfare of the inhabitants of the City of Gallaway.

J. Expiration of Site Plans

Any site plan approved under the provisions of this ordinance shall expire after a period of one year from the date of approval granted by the Planning Commission unless substantial construction shall have been started and completed. For the purpose of this section, substantial construction shall mean the erection, construction

or permanent placement of at least twenty-five (25) percent of all buildings, structures, infrastructure, drainage facilities, drives, parking areas, walkways, landscaping, or other improvements indicated on an approved site plan.

This provision shall apply to all prior approved site plans with the one-year expiration period commencing with the effective date of this sub-section (August 16, 1994). Prior approved site plans shall be completed in their entirety three (3) years from the effective date of this sub-section.

Any site plan that expires in compliance with this subsection may be re-submitted for review by the Planning Commission. However, such site plans shall comply with the requirements of this ordinance in force at the time.

K. Communications Towers

**Communications Tower:** A wireless transmission facility constructed for the purpose of supporting an antenna array; including any accessory structures and equipment. Towers of thirty feet or less in height are exempted from these regulations.

Residential Districts – Communications towers are permitted only as accessory uses to residential uses on the same lot. Maximum Height 60 feet

Commercial Districts – Communications towers are permitted only as accessory uses to commercial uses on the same lot.

Industrial Districts – Communications towers are permitted as accessory uses to industrial uses on the same lot, and as non-accessory uses.

General Standards for Communications Towers in Commercial and Industrial Districts

In addition to the requirements of the applicable district and the general requirements set forth above, a special exception shall be granted for Communications Towers when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

1. **Setbacks** – All towers and accessory structures that are not constructed within a utility easement shall be setback from the property lines a distance equal to twenty (20) percent of the tower height or the district yard requirement, whichever is greater.

In instances when a tower and accessory structures are constructed adjacent to a residential district, either immediately adjacent to such property or across a public way, the minimum setback from a residential lot line or a residential district, shall be equal to one hundred (100) percent of the tower height.

2. **Structural Requirements** – Prior to the approval of any application for a tower or the co-use of an existing tower or utility structure, the applicant shall provide written certification from a registered structural engineer that the tower is able to withstand winds of a minimum of seventy (70) miles per hour with one-half (.5) inch radial ice.
3. **Security** - The cellular tower facility shall be fully secured through the installation of a security fencing/wall system of a minimum height of eight (8) feet or the height of the accessory structures, whichever is greater.
4. **Site Plan Requirements**- Prior to the issuance of a building permit, the construction of a tower or the utilization of an existing structure for telecommunications or television transmission purposes, the submission of a site plan in accordance with the following provisions shall be required.

If the proposed tower is a new tower not on an existing utility structure, the site plan shall show the location of the initial user's accessory structure and the location of two (2) future accessory structures.

A letter from a professional civil or structural engineer certifying that the tower's height and design complies with these regulations and applicable structural standards and, also describes the tower's capacity which includes the number and type of antennas that can be accommodated.

A letter indicating why existing towers within one (1) mile cannot be utilized.

5. **Removal of Obsolete Towers**

- A. Any tower that is no longer in use for its original communication purpose shall be removed at the owner's expense. The owner shall provide the City of Gallaway with a copy of the notice of intent to the FCC to cease operations and shall be given ninety (90) days from the date of the ceasing of operations to remove the tower and all accessory structures, provided another operator has not submitted a request for a tower during that time period. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.

- B. Prior to the issuance of a permit for any tower, co-use of any tower or co-use of any utility structure, a surety instrument (i.e. letter of credit or bond), which shall serve to ensure prompt removal of the tower once it ceases to operate, shall be provided by all users. The amount of the surety instrument shall be determined by the Mayor of Gallaway and the city engineer and then approved by the Planning Commission during the site plan review process.

**CHAPTER 2**  
**ESTABLISHMENT OF DISTRICTS, USES PERMITTED IN EACH DISTRICT, AND PROVISION FOR OFFICIAL ZONING MAP**

**11-201. ESTABLISHMENT OF DISTRICTS**

**A. Regular Districts**

In order to implement all purposes and provisions of the Ordinance, the lands within the corporate limits of the City of Gallaway, Tennessee, are divided into districts designated as follows:

1. Residential Districts:

AR	Agricultural Residential
R-1	Low Density Residential
R-2	High Density Residential
R-MH	Mobile Home Park

2. Commercial Districts:

NC	Neighborhood Commercial
GC	General Commercial

3. Industrial Districts:

I	Industrial
---	------------

**B. Special Districts**

In order to address special problems and circumstances that may exist throughout the City, the special flood hazard (FH) district is established.

**11-202. USE PERMITTED IN EACH ZONING DISTRICT IN GALLAWAY**

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<b>RESIDENTIAL</b> Dwellings: Single family detached	X	X	X				
Single family attached		X					
Two Family (duplex)		X					
Multiple Family		X					
Mobile Home Park				X			
<b>OTHER HOUSING</b> Commissioning House; Non-detached Owner/Caretaker Living Quarters inside commercial building in compliance with all commercial fire codes						X	
Rooming House						X	
Hotel						X	
Motel and Tourist Court						X	
<b>INSTITUTIONAL</b> Cemetery-Mausoleum	C		C			C	
Place of Worship	C	C	C		X	X	
School, public or private Grades K-12	C	C	C		X	X	
Day Care Center	C	C	C		C	X	
Family Day Care Home	C	C	C		C	X	
Group Day Care Home	C	C	C		C	X	
Health Clinic					X	X	
Hospital						X	
Lodge, Club						X	
Country Club	C		C			C	C
Nursing Home					X	X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Observation-Rehab. Center							
Park, Playground, Playfield	X	X	X	X	X	X	X
Community Centers	C	C	C	C	X	X	X
Orphanages	C	C	C				
Rest Homes and Homes for the Aged					X	X	
Airports, Air cargo terminals, heliports and any other aeronautical devices						C	C
Major mail processing centers						C	C
Military Installations						C	C
Colleges, junior colleges and universities, but excluding business operated as profit making enterprises						C	C
All golf courses	C	C	C			C	C
Stadiums, sports arenas, auditoriums and bandstands						C	C
Zoological gardens						C	C
Public, parochial and private non-profit libraries and observatories	C	C	C			X	
Non-profit private public and utility admin. Offices						X	
Post Offices (excluding major mail-processing centers)					X	X	X
Police and Fire Stations	C	C	C		X	X	X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Temporary Non-profit festivals	C	C			C	C	C
<b>PUBLIC UTILITIES</b> Communications installations or exchanges					X	X	X
Electric or gas substations	C	C	C		X	X	X
Railroad, bus & transit terminals						C	C
Electric, communication and telephone distribution lines, poles, transformers and splice boxes <sup>2</sup>	X	X	X	X	X	X	X
Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances <sup>2</sup>	X	X	X	X	X	X	X
Right-of-way to all modes of transportation	X	X	X	X	X	X	X
Small landscaped, scenically significant open areas, natural reserves	X	X	X	X	X	X	X
Public and private utility corporations or truck yards						C	C
Radio and television transmission stations						C	C
Railroad yard and other transportation equipment marshaling and storage areas						C	C
Reservoirs and water tanks	C	C	C	C	C	C	C

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Electric transmission lines and major fuel transmission lines						C	C
Gas, electric, production, treatment facility						C	C
Water Production, Treatment Facility	C	C	C		C	C	C
<u>LUMBER, HARDWARE, BUILDING MATERIALS</u> Lumber yards							X
Building Materials						X	X
Heating & plumbing equipment						X	X
Paint, glass & wallpaper						X	
Electrical supplies						X	X
Welding supplies						X	X
Hardware						X	
Greenhouse & nursery products						X	C
Agricultural equipment, sales & service						X	
Lawnmower sales						X	
Lawnmower, sales and services (repair)						X	
<u>GENERAL MERCHANDISE</u>							
Department stores						X	
Variety stores					X	X	
Clothing & Dry Goods						X	
General Merchandise Stores						X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<b>FOOD-DRUG-BEVERAGE Bakery</b>					X	X	C
Candy, Confectionery					X	X	
Delicatessen					X	X	
Drugs and pharmaceuticals					X	X	
Fruit & vegetable. Stand					X	X	
Grocery store					X	X	
Package liquor store						X	
Supermarket						X	
Beverage store						X	
<b><u>AUTO DEALERS &amp; SERVICE STATIONS</u></b>							
Service Stations						X	
Used Car sales						X	
Auto parts (new)						X	
Auto Dealership						X	
Car Wash					X	X	
Auto parts (used)						C	C
Boat, marine sales						C	
Truck, heavy equipment sales						C	
Mobile home sales; prefabricated homes						C	
Auto and truck rental						C	
Motorcycle Sales						X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Tire sales and servicing						X	
<b>APPAREL &amp; ACCESSORIES</b>							
Men & boy's clothing						X	
Women's ready-to-wear						X	
Millinery & accessories						X	
Shoe stores						X	
Tailor Shop						X	
Children's shop						X	
<b><u>FURNITURE - HOME FURNISHINGS</u></b>						X	
<b><u>APPLIANCES</u></b> Furniture							
Appliances						X	
Drapery & upholstery						X	
Piano & musical instrument						X	
Floor coverings						X	
Radio & TV sales; phonographs						X	
<b><u>EATING &amp; DRINKING PLACES</u></b>							
Restaurants, cafes, cafeterias					C	X	C
Taverns, bars						C	
Nightclubs						C	
Dairy bars						X	
Drive-in restaurants						X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<b><u>ART-ANTIQUÉ JEWELRY</u></b>							
Antique store						X	
Art Gallery						X	
Art & Craft Shop						X	
Flower shop, florist						X	
Gift Shop						X	
Glasses & China						X	
Jewelry, watches						X	
Optical goods						X	
<b><u>BOOKS - STATIONERY</u></b>							
Books						X	
Greeting cards					X	X	
Magazines					X	X	
Newspapers					X	X	
Stationery					X	X	
<b><u>HOBBY-TOY-PET</u></b>							
Aquariums, bird store, pet shop						X	
Camera shop						X	
Hobby shop						X	
Sporting goods, bicycles						X	
Toys						X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<u>MISCELLANEOUS RETAIL</u>							
Salvage clothing						X	
<u>FINANCE-INSURANCE-REAL ESTATE</u>							
Banks					C	X	
Savings & Loan					C	X	
Real Estate Agents					C	X	
Insurance Carriers					C	X	
Other Finance, Insurance, Real Estate Services					C	X	
<u>PERSONAL SERVICES</u>							
Branch laundry, dry cleaning equipment						X	
Laundry dry-cleaning pick-up station					X	X	
Self-service laundry					X	X	
Photographic services						X	
Beauty Shop					X	X	
Pipe and tobacco shop					X	X	
Barber shop					X	X	
Funeral Services						X	
Tailoring & dressmaking					X	X	
Apparel repair & alteration					X	X	
Shoe repair					X	X	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<b><u>PROFESSIONAL SERVICES</u></b>							
Physicians						X	
Dentists						X	
Veterinarians						X	
Attorneys						X	
Accountants						X	
Engineers						X	
Planning						X	
Architects						X	
Optometrist						X	
Hospital Services & Supplies						X	
Medical clinic-out-patients						X	
<b><u>BUSINESS OFFICES</u></b>							
Executive, management and administrative activities of private, profit making firms						X	
<b><u>RECREATION &amp; ENTERTAINMENT</u></b>							
Motion Picture Theater						X	
Drive-in movie						C	
Amusement park						C	
Fairground						C	
Golf driving range						C	

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Indoor Shooting Range						C	
Roller skating						X	
Bowling						X	
Electronic Amusement Devices, Arcades						X	
Billiard parlor						X	
Health Spa						X	
Miniature golf						X	
<u>BUSINESS SERVICES</u> Duplicating, mailing & stenographic						X	
Employment agencies						X	
Warehousing & storage						X	X
Consulting Service						X	
Detective & protective						X	
Photofinishing						C	X
Trading stamps						X	
Equipment rental & leasing						X	X
Monument sales						X	
Clerical services						X	
Custom printing, excluding the printing of books other than pamphlets and small reports						X	
Research services (private)						C	X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Metal & wood fencing, ornamental grill work						C	X
Window cleaning						X	
Disinfecting & exterminating						X	
Central laundry, dyeing and dry cleaning works							X
Animal hospital & clinic						X	
Freight forwarding office						X	X
Truck terminal							X
<b><u>REPAIR SERVICES</u></b>							
Auto repair, garages						X	
Electrical repairs, small appliances						X	
Radio and TV repair						X	
Watch, clock & jewelry repair						X	
Auto body repair and paint shops						X	
Furniture and large household appliance repair						X	
Armature rewinding							X
Welding Shop							X
Reupholstery						X	X
Tire recapping or retreading							X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
<b><u>EDUCATIONAL SERVICES</u></b>							
Business & Steno schools						X	
Barber & beauty schools						X	
Art & Music Schools						X	
Driving Schools						X	
Correspondence Schools						X	
Other special training & schooling						X	
<b><u>CONTRACT CONSTRUCTION SERVICES</u></b>							
Building Contractor						X	X
Other General Construction						X	X
Plumbing and heating and decorating						X	X
Electrical Construction						X	X
Masonry, stonework tile setting, plastering and concrete						X	X
Carpentry & wood flooring						X	X
Roofing and sheet metal						X	X
Water well drilling						X	X
<b><u>WHOLESALE TRADE</u></b>							
Drugs, chemicals, and allied products						C	X
Groceries and related products						C	X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Electrical goods						C	X
Hardware, plumbing & cooling equipment and supplies						C	X
Metals & minerals						C	X
Petroleum bulk stations, terminals, & distribution							X
Scrap & waste material							X
Paper & paper products							X
Manufacture assembly, processing, storage, distribution of: Chemicals, drugs, soap, fertilizers and abrasive products							C
Communications equipment, electronic components, engineering scientific & photographic equipment							X
Electrical machinery and equipment							X
Sign making							X
Record pressing							X
Book binding							X
Date processing service							X
Printing & publishing							X
Rubber & plastic products, except rubber manufacture							X
Fabricated metal products & machinery							X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Food & beverage products except animal slaughter, stockyards & rendering							X
Brewery							X
Furniture and fixtures							X
Jewelry, silverware, plated ware, musical instruments, toys, sporting goods, office, art supplies							X
Leather products							X
Lumber & wood products							X
Paperboard containers & boxes							X
Scrap metal processors							C
Stone, clay, glass & related mineral products, mortar, plaster paving materials							C
Textile & apparel products							X
Tobacco products							X
Transportation, equipment including motor vehicles, aircraft & parts, boat building railroad equipment, motorcycles bicycles & parts							X
<b><u>UNDEVELOPED AND VACANT</u></b>							
Agriculture & forestry	X	X	X	X	X	X	X
Yard areas, green belt & open spaces, wildlife habitat refuge, hiking, nature, bike trails & related uses	X	X	X	X	X	X	X

USES PERMITTED	R-1	R-2	AR	MH	NC	GC	I
Circuses, carnivals and similar transient enterprises						C	C
Erosion & sedimentation control measures, facilities & districts	X	X	X	X	X	X	X
Flood proofing and flood hazard reduction structures	X	X	X	X	X	X	X
Open water including ponds, lakes and reservoirs, streams & waterways (all man-made)	C	C	C	C	C	C	C

These activities will not be permitted in any zoning district in Galloway:

- |                                     |  |                         |
|-------------------------------------|--|-------------------------|
| Abrasive, asbestos and non-metallic | Arsenals                                   | Atomic Reactors         |
| Mineral processing                  | Automobile Wrecking yards                  | Drag Strip              |
| Explosive Manufacturing and Storage | Fat Rendering                              | Fireworks Manufacturing |
| Offal Processing                    | Ore Reduction                              | Paper Mill              |
| Petroleum Refining                  | Pulp Manufacturing                         | Race Track              |
| Radioactive Waste Handling          | Rock Crushing                              | Slaughtering            |
| Tanning                             | Smelting and refining of Metals and Alloys |                         |

Footnotes:

- 1 Only day care centers, group day care homes, and family day care homes, run by churches on their own premises, are permitted in AR, R-1, R-2, and R-MH Districts.
- 2 But not including major electric transmission lines and major fuel transmission lines.
- 3 No establishment shall occupy more than 2500 square feet in gross floor area.

## **11-203 PROVISIONS FOR OFFICIAL ZONING MAP**

### **A. Incorporation of Map**

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

### **B. Identification and Alteration of the Official Zoning Map**

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in 11-304 of Ordinance Number \_\_\_\_\_ of the City of Gallaway, Tennessee," together with the date of the adopting of this ordinance.

If, in accordance with the provisions of this ordinance and Section 13-7-201 Tennessee Code Annotated, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Commission of Mayor and Commissioners. A statement shall be included "By official action of the Commission of Mayor and Commissioners, the following change(s) was made in the Official Zoning Map: (brief description of nature of change), "which entry shall be signed by the Mayor and attested by the City Clerk.

No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under state law.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Building Inspector shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.

### **Replacement of Official Zoning Map**

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

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts there of remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

## **11-204 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

### **A. Rules**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

6. Boundaries indicated as parallel to or extensions of features indicated in subsection (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by scale of map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections (1) through (6) above, the Commission of Zoning Appeals shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Commission of Appeals may permit the extension of the regulations for either portion of the lot not to exceed 500 feet beyond the district line into the remaining portion of the lot.

### **11-205. MANUFACTURED HOMES**

Definition: A residential dwelling, transportable in sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. For the purpose of these regulations the term "manufactured home" does not include "mobile homes" as herein defined. A manufactured home having the same general appearance as a site built home shall be allowed on individual lots in any residential district provided the following conditions are met:

1. The unit must meet the construction standards established by the United States "Department of Housing and Urban Development, pursuant to the National Manufactured home Construction and Safety Standards Act; that are in effect at the time of installation. The unit must also comply with the regulations of the Tennessee Department of Commerce and Insurance, Division of Fire Prevention in effect at the time of installation. The unit will be installed on a permanent foundation system in compliance with all applicable requirements of the Southern Standard Building Code.
2. The unit must be covered with an exterior material customarily used on conventional dwellings. A solid concrete or masonry or brick veneer perimeter foundation must be used. Suitable exterior materials include but shall not be limited to clapboard or simulated clapboard such as conventional or metal material, but excluding smooth, ribbed or corrugated metal or plastic panels.
3. The hitches or towing apparatus, axles and wheels must be removed.
4. The roof must be pitched so that is at least a two-inch vertical rise for each twelve (12) inches of horizontal run. The roof must consist of material that is customarily used for conventional dwellings including but not limited to approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roof.
5. All such units shall be required to connect to a public utility system which includes, gas, electric, water and sewer in compliance with the Southern Standard Building Code and national Electrical Code. Electrical meters will be mounted on an attached fixture on the house.
6. These provisions shall not apply to manufactured homes in an approved mobile home park.

# CHAPTER 3

## PROVISIONS FOR RESIDENTIAL DISTRICTS

### **1-301. STATEMENT OF PURPOSE**

#### **A. General Purposes of Residential Districts**

The residential districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, and prosperity of other aspects of the general welfare. These general goals include, among others, the following more specific purposes:

- (1). To provide sufficient space in appropriate locations for residential developments to meet adequately the housing needs of the present and expected future population for a variety of choices in site selections;
- (2). To permit improved movement on the public ways and to utilize effectively existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly, all through traffic, in residential areas;
- (3). To protect residential areas against undue congestion, as far as possible, by relating the density of population, the intensity of activity, and the surrounding land and to one other, and by providing off-street parking spaces for automotive vehicles;
- (4). To require the provision of open space in residential areas wherever practicable; and to encourage the provision of better standards of open space by permitting moderately larger bulk, higher density, and greater intensity with better standards of open space, in order to open up residential areas to light and air, to provide open areas for rest and creation, and to break the monotony of continuous building bulk, and thereby to provide a more desirable environment for urban living;
- (5). To provide appropriate space for public and private educational, religious, recreational, and similar facilities and public utilities which serve the needs of nearby residents and which do not create objectionable influences; and to coordinate the intensity of residential land use with the appropriate community facilities;
- (6). To provide a zoning framework conducive to freedom of architectural design in order to encourage the development of more attractive and economical building forms;
- (7). To promote the most desirable use of land and direction of building development in accordance with a well considered land use plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the community's tax revenues.
- (8). To exclude from these districts all buildings and other structures and uses having commercial characteristics whether operated for profit or otherwise except that conditional uses and home occupations specifically provided for in these regulations shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

### **11-302. AR AGRICULTURAL-RESIDENTIAL DISTRICTS**

#### **A. Purpose and Intent**

These districts are designed to provide suitable areas for non-intensive agricultural and low-density residential development characterized by an open appearance. The residential development will consist of single family detached dwellings and accessory structures. These districts also include community facilities, and open uses that serve specifically the residents of these districts. Further, it is the intent of this ordinance that these districts be located so that the provisions of appropriate urban services will be physically and economically feasible and so that provision is made for the orderly expansion and maintenance of urban residential development.

#### **B. Uses and Structures**

##### **1. Principal Permitted Uses and Structures**

RESIDENTIAL DWELLINGS - limited to -  
Single family detached

INSTITUTIONAL - limited to -

Day care centers, family day care homes and group day care homes, provided they are run by a church and on the premises of the church, Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

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

c. Customary general farming uses, gardens, and buildings incidental thereto; provided, however, that no permit shall be issued for commercial animal or poultry farms, or kennels. Horses are allowed providing there is a minimum of five (5) acres with an additional one and one-half (1.5) acres of open pastureland for every animal, with a limit of twelve (12) animals or twenty-three (23) acres.

d. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

e. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit libraries, museums, art galleries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the AR Agricultural-Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the AR Districts, the minimum required lot area shall be five (5) acres.

2. Minimum Lot Width at the Building Line

Within the AR Districts, the width of a lot at the building line shall be at least one hundred (100) feet.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be thirty-five (35) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 11-104 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards; obstructions prohibited at street intersections, exception to these provisions and other regulations are contained in Section 11-105 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within AR Districts.

a. Front Yards

In all AR Districts, front yards shall be a minimum of forty (40) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards

Interior Lots – Minimum of 15 feet

Corner lots: Street side - 40 feet

Non-street side - 15 feet

c. Rear Yards

In all AR Districts, rear yards shall be a minimum of twenty-five (25) feet.

E. Site Plan Review for Community Facility Uses

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screen;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and building;

-The existing zoning.

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Gallaway;

e. Show the relation of the proposed development to:

-The street system

-The surrounding use district, and

-Surrounding properties

f. Bear a certificate by a licensed civil engineer, architect or surveyor, certifying that the plan as shown is true and correct;

g. Bear a form for certificate of approval by: The Secretary of the Planning Commission

h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements as shown on the plan.

2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.

3. The certification required of the owner and trustee of the mortgage in 11-302 (E)(1)(h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

### **11-303. R-1 LOW DENSITY RESIDENTIAL DISTRICTS**

#### **A. Purpose and Intent**

These districts are designed to provide suitable areas for low-density residential development characterized by an open appearance. The residential development will consist of single family detached dwellings and accessory structures. These districts also include community facilities, public utilities, and open uses that serve specifically the residents of these districts. Further, it is the intent of this ordinance that these districts be located so that the provisions of appropriate urban services will be physically and economically feasible and so that provision is made for the orderly expansion and maintenance of urban residential development.

#### **B. Uses and Structures**

##### **1. Principal Permitted Uses and Structures**

RESIDENTIAL DWELLINGS - limited to -  
Single family detached

INSTITUTIONAL - limited to -

Day care centers, family day care homes and group day care homes, provided they are run by a church and on the premises of the church, Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

##### **2. Permitted Accessory Uses and Structures**

f. Private garages and parking areas;

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

h. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

i. Accessory uses or structures customarily incidental to the above permitted uses.

##### **3. Conditional Uses**

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit libraries, museums, art galleries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-1 Low Density Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-1 Districts, the minimum required lot area shall be 15,000 square feet.

2. Minimum Lot Width at the Building Line

Within the R-1 Districts, the width of a lot at the building line shall be at least one hundred (100) feet.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be thirty-five (35) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 11-104 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards; obstructions prohibited at street intersections, exception to these provisions and other regulations are contained in Section 11-105 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-1 Districts.

a. Front Yards

In all R-1 Districts, front yards shall be a minimum of forty (40) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards

Interior Lots – Minimum of 15 feet

Corner lots: Street side - 40 feet

Non-street side - 15 feet

c. Rear Yards

In all R-1 Districts, rear yards shall be a minimum of twenty-five (25) feet.

E. Site Plan Review for Community Facility Uses

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screen;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and building;

-The existing zoning.

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Gallaway;

e. Show the relation of the proposed development to:

-The street system

-The surrounding use district, and

-Surrounding properties

f. Bear a certificate by a licensed civil engineer, architect or surveyor, certifying that the plan as shown is true and correct;

g. Bear a form for certificate of approval by: The Secretary of the Planning Commission

- h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements as shown on the plan.
2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
3. The certification required of the owner and trustee of the mortgage in 11-302 (E)(1)(h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

### **304. R-2 HIGH DENSITY RESIDENTIAL DISTRICTS**

#### **A. Purpose and Intent**

These districts are designed to provide suitable areas for high density residential development where appropriate urban services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Generally, these districts will be characterized by single-family detached dwellings duplexes, and multiple family dwellings.

These districts also include community facilities, public utilities, and open uses that serve the residents of these districts.

#### **B. Uses and Structures**

##### **1. Principal Permitted Uses and Structures**

RESIDENTIAL DWELLINGS - limited to -

Single family detached

Two-family (duplex)

Multiple family

INSTITUTIONAL - limited to -

Day care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church, parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

##### **2. Permitted Accessory Uses and Structures**

a. Private garages and parking areas;

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

- c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops; and except home occupations shall not be permitted in multi-family dwellings.
- d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

- Place of worship
- School, public or private, grades K-12
- Country Clubs
- Community centers
- Orphanages
- All golf courses
- Public, parochial and private non-profit museums, art galleries, libraries and observatories
- Police and fire stations
- Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

- Electric or gas substations
- Reservoirs and water tanks
- Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

- Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-2 Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-2 Districts, the following minimum lot areas shall be required:

- Single-family Detached Dwellings - 10,000 square feet
- Duplex Dwellings - 12,000 square feet
- Triplex Dwellings - 16,000 square feet
- Quadplex Dwellings - 20,000 square feet
- More than four Dwelling units 20,000 sq. ft. plus 2000 sq. ft. for every dwelling unit in excess of four units

2. Minimum Lot Width at the Building Line

- Single-family Detached Dwellings - 100 feet
- Duplex Dwellings - 100 feet
- Triplex Dwellings - 100 feet
- Quadplex Dwellings - 125 feet
- More than four dwelling units - 150 feet

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be thirty-five (35) feet above the finished grade. However, this limitation shall not apply to these uses spelled out in 11-104 (D), Exception on Height Limitations.

4. Minimum Spacing between Buildings (Multi-family Dwellings)

In multifamily developments within R-2 zones the following spacing shall be required between buildings:

- a. End to End - 20 feet
- b. End to Side - 25 feet

- c. Side to Side - 30 feet  
Side shall mean the building facade or elevation with the longest horizontal axis.

End shall mean the building facade or elevation with the shortest horizontal axis.

D. Yard Requirements

1. General Provisions

General provisions applicable to residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 11-105 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-2 Districts.

a. Minimum Depth of Front Yards

- (1) Single-family Dwellings - 25 feet
- (2) Duplex Dwellings - 30 feet
- (3) Multi-family Dwellings - 40 feet. Such space may be part of the required open space but may not be used for parking
- (4) All other uses - 50 feet or more if required by the BZA

b. Minimum Width of Side Yards

- (1) Single-family Dwellings 10 feet
- (2) Duplex Dwellings 15 feet
- (3) Multi-family Dwellings 30 feet. Such space may be part of the required open space but may not be used for parking areas, driveways or the storage of refuse containers.
- (4) All other uses - 20 feet or more if required by the Commission of Zoning Appeals

c. Minimum Depth of Rear Yards

- (1) Single-family Dwellings - 15 feet
- (2) Duplex Dwellings - 20 feet
- (3) Multi-family Dwellings - 30 feet. Such space may be part of the required open space but may not be used for parking areas, driveways or the storage of refuse containers.
- (4) All other uses - 25 feet or more if required by the Commission of Zoning Appeals

E. Open Space Requirement for Multi-family Developments

1. Minimum Open Space Requirement

Minimum open space requirement shall not be less than 40% of the total lot area.

a. Open Space Defined

Open space is outdoor living space for the residents and for ascetic appeal. Such space shall include lawns and other landscaped areas, walkways, outdoor sitting areas and outdoor recreation areas, exclusive of required parking areas and driveways.

F. Screening Requirements for Multi-family Developments

- 1. Screening requirements vary by the purpose for which they are intended. For the purposes of this section, two types of conditions require screening: Privacy separations

2. Performance Criteria

- a. Screens are intended to provide visual and physical separation of conflicting uses, and should be designed so that they are an orderly part of the landscape and do not dominate the view.
- b. Screens should not compromise safety by blocking vision at intersections. Elements requiring screening should not be placed to impede vision of any street corner as referenced in Section 11-105 of this Zoning Ordinance. Screens should not be placed so as to obstruct visibility of vehicles entering or leaving driveways. No screen or fence over 2 to 6 feet should be placed in front yards.
- c. Fences and screens should not impede or divert the flow of water in any drainage way.
- d. The maximum height for fences is 6 feet, except for tennis courts that may be 10 feet. Screening of service areas must be at least 6 feet and no more than 8 feet.

3. Privacy screening shall be required in multi-family housing areas to separate such areas from adjacent single-family or duplex lots.
  - a. Fences designated to create privacy should be made of masonry, ornamental metal or durable wood, or some combination of the three. The use of chain link, plastic or wire is not permitted for fences. Fences along roadways shall have, brick columns located 50 feet on center maximum.
  - b. Solid fences should not create a stockade appearance. This can be accomplished in a number of ways, including adding an evergreen screen on both sides of the fence, or by undulating the plan of the fence.
4. Garbage collection areas shall be conveniently located for the residents as determined by the Gallaway Planning Commission and shall be enclosed by opaque materials on all four sides, with doors to remove front end dumpsters. The following criteria shall apply:
  - a. Dumpster enclosures shall be located on a concrete pad. The size of pad being as recommended by the City Sanitation Department.
  - b. The screening on all enclosed dumpsters shall be at least 2 feet taller than the dumpster.
  - c. All garbage collection areas shall be in compliance with all Water Pollution Control Regulations of the State of Tennessee.

G. Site Plan Review for Community Facilities, Duplex Developments, and Multi-family Uses

Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

1. The site plan shall include:
  - a. Name of development and address.
  - b. Name and address of owner of record and the applicant.
  - c. Scale of 1"=50' or larger.
  - d. Note present zoning classification of the site and all abutting properties. Also, note nature of proposed use.
  - e. Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
  - f. Courses and distances of centerlines of all streets.
  - g. All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
  - h. The acreage or square footage of the lot.
  - i. Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed-line illustrating contours.
  - j. A certificate by a licensed civil engineer, architect or land surveyor certifying that the plan as shown is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
  - k. A vicinity map showing the relationship of the proposed development to Gallaway.
  - l. A form for certification of approval by the Secretary of the Planning Commission.
  - m. A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.
2. The site plan shall show the location, dimensions, site and height of the following:
  - a. Sidewalks, streets, alleys, easements and utilities.
  - b. Buildings and structures including the front (street), side and rear elevations of proposed buildings.
  - c. Public sewer systems.
  - d. Slopes, terraces, and retaining walls.
  - e. Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
  - f. Water mains and fire hydrants.

- g. The following when applicable:
    - 1. Number of dwelling units.
    - 2. Number and size of parking stalls and type of proposed pavement (either portland concrete or asphalt).
    - 3. Number of loading spaces and type of proposed pavement (either portland concrete or asphalt).
  - h. Plans for the collection and discharge of storm water and methods for landscaping. The delineation of the limits of floodplains, if any. Also the site plan must denote the minimum 100-year, base flood elevation level if any portion of the site lies within the FEMA-designated, special, flood, and hazard area.
  - i. Proposed grading and drainage plan with calculations.
  - j. Detailed plans for landscaping and required screens.
3. The Planning Commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
  4. The Planning Commission, within sixty (60) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
  5. The certification required of the owner and trustee of the mortgage in 11-303 (E)(1)(h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
  6. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

#### H. Design Standards for Multi-Family Dwellings

##### 1. Purpose

It is the express purpose of these provisions to establish design criteria to regulate proposed development and to guide the Planning Commission in its review of Site Plans. The Planning Commission may use these standards in requiring amendments to site plans and in determining the appropriateness of such plans for approval.

##### 2. Open Space Requirements

Common open space must be suitably improved and landscaped for its intended use. Common open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements that are permitted in the common open space must be appropriate to the uses that are authorized for the common open space, having regard for its topography and unimproved condition.

##### 3. Access

- a. Every structure shall be on a lot adjacent to a public street.
- b. Access and circulation shall provide adequately for fire fighting equipment, services deliveries, furniture, moving vans, and refuse collection.
- c. Adequate paved pedestrian access shall be provided for each dwelling.

##### 4. Grouped Parking Facilities

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one parking space per dwelling shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit that the space is to serve. When

appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

5. Privacy

Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walls, and landscaping shall be provided for the protection and privacy of the occupants, and as a means of screening objectionable views or uses and of reducing noise.

6. Walks

Street side walks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

7. Recreation Areas

Adequate recreational facilities for the residents of the project may be required in a location which is accessible to the living units and which does not impair the view and privacy of the living units.

Attractive outdoor sitting areas may be required which are, appropriate in size, type and number to the needs of the residents. Active recreation areas may be required which are appropriate for the needs of the residents. Well-equipped playgrounds of adequate size may be required where it is anticipated that children will occupy the premises.

8. Planting

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

10. Design Review

The criteria to be considered by the Planning Commission in determining whether a proposed structure(s) will conform to proper design standards and the general character of the area are as follows:

- a. The plan for the proposed structure(s) is in conformity with appropriate and acceptable architectural standards, the general character of the surrounding neighborhood and the community and the orderly development of the community.
- b. The plan for the proposed structure(s) indicates that the structure(s) is reasonably protected against internal and external noise, vibrations, and other conditions that might tend to make the environment less desirable.
- c. The proposed structure(s) is not in its exterior design and appearance, of such inferior quality as to cause the area to depreciate in appearance or value.
- d. The proposed development is in compliance with all applicable ordinances and statutes governing the location and appearance of buildings and structures.

**-305. MH MOBILE HOME PARK RESIDENTIAL DISTRICTS**

A. Purpose and Intent

These districts are designed to provide suitable areas for mobile home park residential development where appropriate urban services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Single-family mobile home dwellings in mobile home parks and accessory structures will characterize these districts. These districts also include community facilities, public utilities and open uses that serve the residents of these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -  
Mobile Home Parks

INSTITUTIONAL - limited to -

Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

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

c. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and wastewaters (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the MH-Mobile Home Park Residential Districts.

C. Bulk Regulations

The bulk regulations appearing below apply to buildings or other structures located on any zone lot or portion of a zone lot, including all new developments, enlargements, extensions or conversions located in any MH-District.

1. Minimum Required Lot Area

Within the MH-Districts, the minimum lot area for a mobile home park shall be five (5) acres.

2. Minimum Mobile Home Plot Size

Within the MH-Districts, the minimum plot sizes for an individual mobile home in the mobile home park shall be 9,000 square feet.

3. Maximum Height

The maximum height of any portion of a mobile home shall be thirty-five (35) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 11-104 (d), Exception on Height Limits.

D. Yard Requirements

1. General Provisions

General provisions applicable to residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 11-105 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all individual mobile home plots located in the mobile home park.

a. Front Yards

In all MH-Districts, front yards for the mobile home park shall be a minimum of fifty (50) feet. In all MH-Districts front yards for individual mobile home plots shall be a minimum of thirty-five (35) feet.

b. Side Yards

In all MH-Districts, side yards for the mobile home park shall be a minimum of thirty (30) feet. In all MH-Districts, side yards for individual mobile home plots shall be a minimum of twenty (20) feet.

c. Rear Yards

In all MH-Districts, rear yards for the mobile home park shall be a minimum of thirty (30) feet. In all In all MH- Districts, rear yards for individual mobile home plots shall be a minimum of twenty (20) feet.

d. Park Buffer

Around all mobile home parks there shall be provided a 50 foot wide buffer area on all sides of the mobile home park in addition to the yard requirements above. Screening shall be provided in the form of fencing, or trees/shrubbery that must be a minimum of six (6) feet in height on the sides and the rear of the mobile home park. The owner of the mobile home park shall be responsible for the maintenance and appearance of all screening. Refer to the landscape section of this ordinance for list of recommended trees and shrubbery. The Planning Commission reserves the right to impose more or less stringent screening requirements for proposed mobile home parks based on the topography of the land or other environmental features.

E. Site Plan Review for Community Facilities and Mobile Home Parks

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screens;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

-The existing zoning;

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Gallaway;

e. Show the relation of the proposed development to:

-The street system

-The surrounding use district, and

-Surrounding properties.

f. Bear a certificate by a licensed civil engineer, architect, or surveyor, certifying that the plan as shown is true and correct;

g. Bear a form for certificate of approval by the Secretary of the Planning Commission

h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan, and agree to make any required improvements of adjacent streets as shown on the plan.

i. All mobile home parks are required to provide an internal common area for the communal use of the residents of the mobile home park. The common area can be made up of a playground, or a landscaped garden. Any playground must meet all municipal and state standards/regulations for playgrounds. The owner of the mobile home park shall be responsible for all maintenance and appearance of the common area; failure to do so will result in a fine or other action in accordance with the City of Gallaway Municipal Code. The common area shall be located in the center of the mobile home park, but must be located twenty (20) feet from all internal streets and a minimum of one hundred (100) feet from all city streets. The common area shall be a minimum of 25,000 square feet in area.

2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in

writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revisions being required of the applicant.

3. The certification required of the owner and trustee of the mortgage in 11-406 (E)(1)(h) of this ordinance shall serve as the commitment by the owner that the Site Plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

F. Special Provisions for Mobile Homes

Due to the unique characteristics of mobile homes, the following restrictions are applied in order to eliminate the adverse effects of such structures and at the same time, permit such structures as an alternative form of housing.

1. Mobile homes shall be permitted only in those locations designated on the Gallaway Zoning Map as MH-Mobile Home Park Residential Districts. No traditional housing units shall be permitted in these districts in order to prevent a mixture of the two types of structures.
2. All mobile homes permitted under this section shall be set upon concrete blocks or steel piers which are constructed upon a concrete footing and each mobile home shall be anchored with approved anchors.
3. The Commission of Appeals may require other conditions as needed in order to protect the inhabitants of the mobile home and preserve the character of the district.

G. Regulations for Establishment of Mobile Home Park

1. Licenses and License Fee

- a. No mobile home may be located in the City of Gallaway unless the same shall be in an approved and duly licensed Mobile Home Park.
- b. It shall be unlawful for any person to maintain or operate within the corporate limits of the City of Gallaway any mobile home park unless such person shall first obtain a license for that park.
- c. Licenses shall not be transferable.
- d. The annual license fee for each mobile home park shall be equal to but not greater than the amount allowed by the State Business Tax.
- e. The license shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.

2. Application for License

Applications for a mobile home license shall be filed with and issued by the Building Inspector. Applications shall be in writing signed by the applicant and shall contain the following:

- a. The name and address of the applicant.
- b. The location and legal description of the mobile home park.
- c. The complete plan of the park showing compliance with Sections 11-306 (E) and 11-306 (G) (4).
- d. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. The sketch shall be drawn to scale showing the number and arrangement of mobile home lots, roadways, water supply, water outlets, location and type of sewage, liquid and garbage disposal and location of other facilities.
- e. Such further information as may be requested by the Building Inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The Building Inspector and the Health Office shall investigate the applicant and inspect the proposed plans and specifications. If the proposed mobile home park will be in compliance with all provisions of this

ordinance, the Building Inspector shall approve the application and upon completion of the park according to the plans, shall issue the license.

3. Revocation of License

The Health Officer shall make periodic inspection of the park to insure compliance with this ordinance. In case of non-compliance with any provisions of this ordinance, the Health Office shall serve warning to the licensee. Thereafter, upon failure of the licensee to remove said violation, the Health Officer shall recommend to the Commission of Mayor and Commissioners revocation of the license. The City Commission shall hold a hearing on the matter and upon determination of non-compliance revoke said license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law.

4. Specifications for Mobile Home Park Plan

The mobile home park shall conform to the following requirements:

- a. The park shall be located in a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water.
- b. The minimum required lot area for a mobile home park shall be five (5) acres.
- c. Mobile home spaces shall be clearly defined and mobile homes parked so that there will be at least fifteen (15) feet of clear space between mobile homes or any accessory structure, such as a garage or fifteen (15) feet between mobile homes and any buildings or structures. No mobile home shall be located closer than thirty-five (35) feet to any public street or highway.
- d. The minimum plot size for an individual mobile home in the mobile home park shall be 9,000 square feet.
- e. The minimum yard requirements for all individual mobile home plots in the mobile home park are:
  - (1) Front Yards for individual mobile home plots shall be a minimum of thirty-five (35) feet.
  - (2) Side yards for individual mobile home plots shall be a minimum of twenty (20) feet.
  - (3) Rear yards for individual mobile home plots shall be a minimum of twenty (20) feet.
- f. All mobile home spaces shall abut upon a driveway of not less than thirty (30) feet in width which shall have unobstructed access to a public street. All driveways shall be lighted at night with 25-watt lamps at intervals of one hundred (100) feet located approximately fifteen (15) feet from the ground.
- g. An electric outlet supplying at least 110-220 volts shall be provided for each mobile home space, and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, and Tennessee Department of Insurance and Banking Regulations No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the electric service organization.
- h. An adequate supply of water under pressure from a source and of a quality approved by the Tennessee Department of Public Health shall be provided; where possible, approved municipal water supplies shall be used. Water shall be piped to each mobile home lot. Adequate water supply for fire protection must be provided.
- i. Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be securely fastened in place, and adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located neither in a mobile home, nor within five (5) feet of a door thereof.
- j. Waste from laundries shall be discharged into a public sewer in compliance with applicable ordinances or into a private sewer disposal plant in such manner to conform to the specifications of the Health Officer. All kitchen sinks, washbasins, bath or shower tubs in any mobile home in any park shall empty into the sanitary sink drain located on the mobile home space. Mobile home parks within three hundred (300) feet of the municipal sewer shall connect to it, with approved and properly sized lines.
- k. Refuse storage, collection and disposal shall be in accordance with other regulations and ordinances of the City of Gallaway.
- l. The Mobile Home Park shall be subject to the rules and regulations of the fire-prevention authorities having jurisdiction.

- m. No permanent additions of any kind shall be built onto, nor becomes a part of, any mobile home. All mobile homes shall be set on concrete blocks or steel piers which are constructed upon a concrete footing and each mobile home shall be anchored with approved anchors.
- n. All service buildings, mobile homes, mobile home spaces and the grounds of the park shall be maintained in a clean slightly condition and kept free of any conditions that will menace the health of any occupant of the public or constitute a nuisance.

5. Register of Occupants

It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- a. Name and address of each occupant;
- b. The make, model and year of all mobile homes;
- c. License number and owner of each mobile home;
- d. The state issuing such license;
- e. The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

# CHAPTER 4

## PROVISIONS FOR COMMERCIAL DISTRICTS

### **1-401. STATEMENT OF PURPOSE**

#### **A. General Purposes of Commercial Districts**

The commercial districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, and prosperity of other aspects of the general welfare. These general goals include, among others, the following:

- 1 To provide space for the many diverse types of commercial activity needed to serve the people and industry and Galloway;
- 2 To promote the constructive improvements and orderly growth of the existing well located commercial centers;
- 3 To prevent indiscriminate mixtures of commercial activity within commercial areas;
- 4 To protect adjacent residential areas from offensive and detrimental influences;
- 5 To promote the most efficient and desirable land use.

### **11-402. NC - NEIGHBORHOOD COMMERCIAL DISTRICT**

#### **A. Purpose and Intent**

These districts are designed to provide a limited variety of goods and services for the immediate residential neighborhood. It is not intended that these districts permit uses that generate large volumes of truck traffic. Adequate buffers and appropriate open spaces between commercial and residential areas are required to protect the integrity of residential neighborhoods.

#### **B. Uses and Structures**

##### **1. Principal Permitted Uses and Structures**

INSTITUTIONAL - limited to -

- Parks, playgrounds and playfields
- Community centers
- Post Offices (excluding major mail processing centers)
- Police and fire stations

PUBLIC UTILITIES - limited to -

- Communication, installations or exchanges
- Electric or gas substations
- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves

FOOD, DRUG, BEVERAGE - except for -

- Supermarkets
- Package liquor stores
- Beverage Stores

BOOKS, STATIONARY - limited to -

- Magazines
- Newspapers
- Greeting Cards
- Stationery

PERSONAL SERVICES - limited to -

- Laundry dry-cleaning pick-up station
- Self-service laundry
- Beauty Shop
- Pipe and tobacco shop
- Barber shop

Pipe and tobacco shop  
Barber shop  
Shoe repair  
Tailoring & dressmaking  
Apparel repair and alteration

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

(a) Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

(b) Accessory facilities and buildings customarily to a permitted use.

3. Conditional Uses

INSTITUTIONAL - limited to -

Day Care Centers

Group day care homes

Family day care homes

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Reservoirs and water tanks

Water production, treatment facility

FINANCE, INSURANCE, REAL ESTATE

All uses

UNDEVELOPED AND VACANT - limited to open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the Neighborhood Commercial District.

C. Bulk Regulations

1. Maximum Area for a NC Zone

No NC District shall exceed one and one-half (1 1/2) acres in size.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street line shall be twenty-five (25) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 11-104 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 11-105 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within NC Districts.

a. Front Yards

In all NC Districts, front yards shall be a minimum of sixty (60) feet in order to provide parking within the required front yard, the front yard shall be a minimum of sixty (60) feet. On double frontage and corner lots, there shall be a front yard on each side facing a street.

b. Side Yards

In all NC Districts, side yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the NC District, the minimum side yard shall be ten (10) feet.

c. Rear Yards

In all NC Districts, rear yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the NC District, the minimum rear yard shall be twenty (20) feet.

Use of Required Yard Areas

The following uses may be made of yard areas in the NC Districts:

1. Landscaping

The first ten (10) feet of any required yard that adjoins, or is adjacent to a street shall be devoted to landscaping (as defined in Section 11-202). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-Street Parking

No driveway or parking area shall occupy more than half of any required yard.

3. Sidewalks

Sidewalks shall be required in all NC Districts, in order to provide for the safety of pedestrians. Sidewalks shall be constructed to all municipal and state standards/regulations. The Planning Commission shall have the authority to waive this requirement as needed.

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Gallaway Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screens;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

-The existing zoning.

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Gallaway;

e. Show the relation of the proposed development to:

-The street system

-The surrounding use district, and

-Surrounding properties.

f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;

g. Bear a form for certificate of approval by the Secretary of the Planning Commission

h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any requirement improvements of adjacent streets as shown on the plan.

2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.

3. The certification required of the owner and trustee of the mortgage in 11-405 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied

with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosed Requirements

All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses that by their nature must exist outside a building.

2. Outside Display

No outside display of merchandise shall be permitted beyond the front building line.

3. Exterior Storage

Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only and such facilities shall be appropriately screened and maintained using the same materials from which the principal use is constructed.

**11-403. GC - GENERAL COMMERCIAL DISTRICT**

A. Intent and Purpose

These districts are designed to provide adequate space in appropriate locations for the establishment of a wide variety of uses including commercial trade and service uses, entertainment facilities, offices and establishments engaged in wholesale trade. Since these activities tend to generate relatively large volumes of traffic and have other characteristics detrimental to residential districts, their locations should be removed from the proximity of residential district as such as possible.

B. Uses and Structures

1. Principal Permitted Uses and Structures

OTHER HOUSING - except for -

Hotel

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Day care center

Group day care home

Family day care home

Nursing home

Park, playground, playfield

Community centers

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Non-profit private, public and utility administrative offices

Post Offices (excluding major mail processing centers)

Police and fire stations

PUBLIC UTILITIES - limited to -

Communications installations or exchanges

Electric or gas substations

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Lumber yards

Greenhouse and nursery products

GENERAL MERCHANDISE

All uses

FOOD, DRUG, BEVERAGE

All uses

AUTO DEALER AND SERVICE STATIONS - limited to -

Service Stations

Auto parts (new)

Auto dealership

Car wash

Motorcycle Sales

Tire sales and servicing

APPAREL AND ACCESSORIES

All uses

FURNITURE, HOME FURNISHING, APPLIANCES

All uses

EATING AND DRINKING PLACES - except for -

Taverns, bars,

Nightclubs

ART, ANTIQUE, JEWELRY

All uses

HOBBY, TOY, PET

All uses

MISCELLANEOUS RETAIL

Salvage Clothing

FINANCE, INSURANCE, REAL ESTATE

All uses

PERSONAL SERVICES

All uses

PROFESSIONAL SERVICES - except for -

Medical Clinic - outpatient

BUSINESS OFFICES

All Uses

RECREATION AND ENTERTAINMENT - limited to -

Motion picture Theater

Roller skating

Bowling

Electronic amusement devices, arcades

Billiard parlor

Health Spa

Miniature golf

BUSINESS SERVICES - except for -

Photofinishing

Metal and wood fencing, ornamental grillwork

Central laundry, dyeing and dry-cleaning works

Truck terminals

Research services (private)

REPAIR SERVICES - except for -

Armature rewinding

Welding shop

Tire recapping or retreading

EDUCATIONAL SERVICES

All uses

CONTRACT CONSTRUCTION SERVICES

All uses

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

2. Permitted Accessory Uses and Structures

a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

b. Accessory facilities and buildings customarily incidental to a permitted use

3. Conditional Uses

INSTITUTIONAL - limited to -

Cemetery - mausoleum

Country Club

Airports, air cargo terminals, heliports and any other aeronautical device

Major mail processing centers

Military installations

Colleges, junior colleges and universities, but excluding business schools operated as profit-making enterprises

All golf courses

Stadiums, sports arenas, auditoriums and bandstands

Zoological gardens

Temporary nonprofit festivals

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals

Public and private utility corporations and truck yards

Radio and television transmission stations

Railroad yards and other transportation equipment marshaling and storage areas

Reservoirs and water tanks

Electric transmission lines and major fuel transmission lines

Gas, electric production and treatment facilities

Water production, treatment facility

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Greenhouse and nursery products

AUTO DEALERS AND SERVICE STATIONS - limited to -

Used car sales

Auto parts (used)

Boat, marine sales

Truck, heavy equipment sales

Auto and truck rental

Mobile Home Sales; prefabricated homes

EATING AND DRINKING PLACES - limited to -

Taverns, bars

Nightclubs

RECREATION AND ENTERTAINMENT - limited to -

Drive-in movie

Amusement park

Fairground

Golf driving range

Indoor shooting range

BUSINESS SERVICES - limited to -

Photofinishing

Research services (private)

Metal and wood fencing, ornamental grill work

WHOLESALE TRADE - limited to -

Drugs, chemicals and allied products  
Groceries and related products  
Electrical goods  
Hardware, plumbing and cooking equipment and supplies  
Metal and minerals

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the GC District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the GC District, the minimum required lot area shall be 21,500 square feet.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be thirty-five (35) feet above the finished grade. However, this shall not apply to those uses spelled out in 11-104 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 11-105 of this ordinance.

2. Basic Provisions

a. Front Yards

In all GC Districts, front yards abutting an arterial street shall be fifty (50) feet. For all other lots, front yards shall be a minimum of forty (40) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards

In all GC Districts, side yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the GC Districts, the minimum side yard shall be ten (10) feet.

c. Rear Yards

In all GC Districts, rear yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the GC Districts, the minimum rear yard shall be thirty (30) feet.

E. Use of Required Yard Area

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 11-202). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-street Parking

There must be a minimum distance of one hundred (100) feet between any two driveways in the GC District. All driveways shall be a minimum of twenty-four (24) feet in width in the GC District. Off-street parking shall be the only type of parking allowed in the GC District. For specific requirements refer to the Off-street Parking Section of this ordinance.

3. Sidewalks

Sidewalks shall be required in the GC District. The Planning Commission shall have the authority to waive this requirement as needed.

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

- all existing and proposed roads and drainage ways;
  - curb cuts, drives and parking areas;
  - building lines enclosing the portion of the tract within which the buildings are to be erected;
  - the proposed use of the land and buildings; and,
  - the existing zoning.
- c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
  - d. Include a vicinity map showing the relationship of the proposed development to Gallaway.
  - e. Show the relation of the proposed development to:
    - the street system;
    - the surrounding use district, and
    - surrounding properties
  - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
  - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
  - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
  3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
  4. The certification required of the owner and trustee of the mortgage in 11-406 (F)(1)(h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
  5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

# CHAPTER 5

## PROVISIONS FOR INDUSTRIAL DISTRICTS

### 11-501. STATEMENT OF PURPOSE

#### A. General Purposes of Industrial Districts

The industrial districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity and other aspects of the general welfare. These general goals include, among others, the following more specific purposes:

1. To provide sufficient space in appropriate locations to meet the needs for industrial expansion within Gallaway;
2. To encourage industrial development that is free from hazards to the public health and which is environmentally safe and non-polluting;
3. To protect industrial activities against congestion, encroachment from incompatible land uses and other adverse characteristics; and
4. To protect adjacent residential and commercial areas from offensive influences; and
5. To promote the most efficient and desirable land use.

### 11-502. I- INDUSTRIAL DISTRICT

#### A. Purpose and Intent

These districts are designed to provide space for a wide range of industrial and related uses which by reasons of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from non-industrial uses. Residential uses are excluded from these districts.

#### B. Uses and Structures

##### 1. Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

- Parks, playgrounds and playfields
- Community centers
- Post Offices (excluding major mail processing centers)
- Police and fire stations

PUBLIC UTILITIES - limited to -

- Communications, installations or exchanges
- Electric or gas substations
- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

- Lumber yards
- Building materials
- Heating and plumbing equipment
- Electrical supplies
- Welding supplies

BUSINESS SERVICES - limited to -

- Warehousing and storage
- Photofinishing
- Research services (private)
- Metal and wood fencing, ornamental grill work
- Central laundry, dyeing and dry cleaning work
- Freight forwarding office
- Truck terminal

Equipment rental and leasing  
REPAIR SERVICES - except for -  
Armature rewinding  
Welding shop  
Reupholstery shop  
Tire recapping or retreading

CONTRACT CONSTRUCTION SERVICES  
All uses

WHOLESALE TRADE - all - except for -  
Manufacture, assembly, processing, storage, distribution of chemicals, drugs, soap, fertilizers and abrasive products  
Scrape metal processors  
Stone, clay, glass, and related mineral products; mortar, plaster paving materials.

UNDEVELOPED AND VACANT - except for -  
Circuses, carnivals and similar transient enterprises  
Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

2. Permitted Accessory Uses and Structures
  - a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.
  - b. Accessory facilities and buildings customarily incidental to a permitted use

3. Conditional Uses

INSTITUTIONAL - limited to -

Country Club  
Airports, air cargo terminals, heliports and any other aeronautical device  
Major mail-processing centers  
Military installations  
Colleges, junior colleges and universities, but excluding business schools operated as profit-making enterprises  
All golf courses  
Stadiums, sports arenas, auditoriums and bandstands  
Zoological gardens  
Temporary nonprofit festivals  
Places of Worship

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals  
Public and private utility corporations and truck yards  
Radio and television transmission stations  
Reservoirs and water tanks  
Electric transmission lines and major fuel transmission lines  
Gas, electric production and treatment facilities  
Water production, treatment facility  
Sewage disposal treatment plants

LUMBER, HARDWARE, BUILDING MATERIALS - except for -  
Greenhouse and nursery products

FOOD, DRUG, BEVERAGE - limited to -  
Bakery

AUTO DEALERS AND SERVICE STATIONS - limited to -  
Auto parts (used)

EATING AND DRINKING PLACES - limited to -  
Restaurants, cafes, cafeterias

PERSONAL SERVICES - limited to -  
Shoe repair

WHOLESALE TRADE - limited to -

Manufacture, assembly processing, storage of, or distribution of chemicals, drugs, soap, fertilizers and abrasive products

Scrape metal processors

Stone, clay, glass and related mineral products, mortar, and plastic paving materials.

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the GI District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the I District, the minimum lot size shall be two (2) acres.

2. Maximum Lot Coverage

Within the I Districts, the maximum lot coverage for all structures, including accessory structures, shall not exceed fifty (50) percent of the total lot area.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be thirty-five (35) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 11-104 (D), Exception on Height Limits. Other exceptions may be made by the Planning Commission during the Site Plan Review process, so long as no fire hazard is created.

D. Yard Requirements

1. General Provisions

General provisions applicable to all industrial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 11-105 of this ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots within the GI Districts.

a. Front Yards

In all I Districts, front yards shall be a minimum of forty (40) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards

In all I Districts, side yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the I Districts, the minimum side yard shall be twenty-five (25) feet.

c. Rear Yards

In all I Districts, rear yards shall be a minimum of fifty (50) feet when the lot adjoins a residential district. For all other lots within the I Districts, the minimum rear yard shall be twenty-five (25) feet.

E. Use of Required Area

The following uses may be made of yard areas in the I Districts.

1. Landscaping

The I District shall require a twenty-five (25) feet wide greenbelt in addition to the required front yard. All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping. All yards not occupied by driveways and sidewalks shall be devoted to landscaping as defined in Section 11-202. When any I District abuts or adjoins a residential district additional screening shall be provided, in the form of fencing or trees/shrubbery. The screening shall be a minimum of twelve (12) feet in height. A list of recommended trees/shrubbery for screening is located in the landscape portion of this ordinance.

2. Driveways and Accessory Off-street Parking

No driveway or parking area shall occupy more than one-half of any required yard. Off-street parking is the only type of parking allowed in the I District. There must be a minimum of one hundred (100) feet between driveways in the I District.

3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:
  - a. Be drawn on a scale of 1" = 100';
  - b. Include the following:
    - All existing and proposed roads and drainage ways;
    - Curb cuts, drives and parking areas;
    - Landscaping and planting screens;
    - Building lines enclosing the portion of the tract within which the buildings are to be erected;
    - The proposed use of the land and buildings;
    - The existing zoning
  - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
  - d. Include a vicinity map showing the relationship of the proposed development to Gallaway.
  - e. Show the relation of the proposed development to:
    - The street system;
    - The surrounding use district, and
    - Surrounding properties
  - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
  - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
  - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
4. The certification required of the owner and trustee of the mortgage in 11-6023(F)(1)(h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Fayette County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosure Requirements

All uses shall be conducted within completely enclosed buildings except for parking and loading, exterior storage and other accessory uses that by nature must exist outside a building.

2. Exterior Storage

Exterior storage may be permitted in the side and rear yards of the principal building only, provided the location, extent, and screening of storage is approved as a part of the site plan by the Planning Commission; and further, provided that exterior storage shall be screened from public view by a suitable fence, wall or hedge not exceeding fifteen (15) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.

3. Surfacing of Storage Areas

All storage areas shall be surfaced to provide a durable and dust-free surfaced. All areas shall be graded and drained so as to dispose of all surface water in the area.

# CHAPTER 6

## PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS

### **11-601. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

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

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, 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 Gallaway, Tennessee Mayor and Commission of Commissioners, does ordain as follows:

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

- 1 The Gallaway Mayor and Commission of Commissioners wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(c) of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-88 Edition) and subsequent amendments.
- 2 Areas of Gallaway are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- 3 These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; and by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

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

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

- 1 Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;
- 2 Require that uses vulnerable to floods, including community facilities, be protected against flood damage;
- 3 Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;
- 4 Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- 5 Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards.

#### **D. Objectives**

The objectives of this Ordinance are:

- 1 To protect human life and health;
- 2 To minimize expenditure of public funds for costly flood control projects;
- 3 To minimize the need for rescue and relief efforts associated with flooding;
- 4 To minimize prolonged business interruptions;
- 5 To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;
- 6 To help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- 7 To ensure that potential buyers are notified that property is in a floodable area; and,
- 8 To establish eligibility for participation in the National Flood Insurance Program.

### **11-602. 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.

"Accessory Structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

- 1 Accessory structures shall not be used for human habitation.
- 2 Accessory structures shall be designed to have low flood damage potential.

- 3 Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- 4 Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
- 5 Service facilities such as electrical and heating equipment shall be elevated or flood proofed.

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

"Appeal" means a request for a review of the Building Official'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 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

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

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Building", for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure")

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

"Elevated Building" means a non-basement building (i) built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), (ii) and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"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 Part 60 of this subchapter directed to a community which believes it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

"Existing Construction" any structure for which the "start of construction" commenced before the effective date of this Ordinance.

"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, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

"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 Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" 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) and/or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.

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

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

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

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

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

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

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

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

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

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

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

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

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

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, next 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 Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2 Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3 Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4 Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - A. By an approved state program as determined by the Secretary of the Interior, or
  - B. Directly by the Secretary of the Interior in states without approved programs.

"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 that 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 basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Subsection 60.3.

"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 the Agency.

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

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

"New Construction" any structure for which the "start of construction" commenced on or after the effective date of this Ordinance. The term also 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.

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

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

"Recreational Vehicle" means a vehicle that is:

- 1 Built on a single chassis;
- 2 400 square feet or less when measured at the largest horizontal projections;
- 3 Designed to be self-propelled or permanently towable by a light duty truck; and
- 4 Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

"State Coordinating Agency" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the Governor of the State or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

"Structure", for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"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 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. 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 identified by the local code enforcement official and which are the minimum

necessary to assure safe living conditions or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

"Variance" is a grant of relief from the requirements of this Ordinance that permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in Subsection 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### **11-603. GENERAL PROVISIONS**

#### **A. Application**

This Chapter shall apply to all areas within the incorporated area of Gallaway, Tennessee.

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

The areas of special flood hazard identified on the Gallaway, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community - Panel Number 470048 0005 A; Effective Date: July 5, 1982 and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this Ordinance. These areas shall be incorporated into the Gallaway, Tennessee Zoning Map.

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

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

#### **D. Compliance**

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

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

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

#### **F. Interpretation**

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

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

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

#### **H. Penalties for Violation**

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 or special exceptions shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Gallaway, Tennessee from taking such other lawful actions to prevent or remedy any violation.

### **11-604. ADMINISTRATION**

A. Designation of Building Inspector

The Building Inspector is hereby appointed to administer and implement the provisions of this Ordinance.

B. Permit Procedures

Application for a development permit shall be made to the Building Inspector on forms furnished by him prior to any development activity. The development permit may include, but is not be limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, 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.\*
- b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where base flood elevation data is available.\*
- c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in 11-604. B.2, where base flood elevation data is available. \*
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. \*(see 2. below)

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the Building Inspector shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

Within all flood zones where base flood elevation data are utilized, the Building Inspector shall require that upon placement of the lowest floor, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspector a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by the same. When floodproofing is utilized for a particular building said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Building Inspector shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

C. Duties and Responsibilities of the Building Inspector

Duties of the Building Inspector shall include, but not be limited to:

- 1 Review of all development permits to assure that the requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
- 2 Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
- 3 Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
- 4 Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with 11-604. B.2.
- 5 Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with 11-604. B.2.

- 6 When flood proofing is utilized, the Building Inspector shall obtain certification from a registered professional engineer or architect, in accordance with 11-604. B.2.
- 7 Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in 11-606.
- 8 When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FHBM or FIRM meet the requirements of this Chapter.
- 9 Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Building Inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least (2) two feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance). All applicable data including the highest adjacent grade elevation and the elevations of the lowest floor of flood proofing shall be recorded as set forth in 11-604. B.
- 10 All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Building Inspector 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.
- 11 Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

## **11-605. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **A. General Standards**

In all flood prone areas the following provisions are required:

- 1 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 2 Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- 3 New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 4 New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 5 Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 6 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 7 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- 8 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 9 Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Chapter; and,

10 Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this Ordinance, shall meet the requirements of "new construction" as contained in this Chapter and provided said non-conformity is not extended.

B. Specific Standards

These provisions shall apply to all areas of special flood hazard as provided herein:

In all areas of special flood hazard where base flood elevation data have been provided, including A zones, A1-30 zones, AE zones, AH zones, AO zones, and A99 zones, as set forth in 11-603. B, the following provisions are required:

- 1 Residential Construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of 11-605. B.3.
- 2 Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated no lower than one (1) foot above the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Building Inspector as set forth in 11-604. B.2.
- 3 Elevated Building. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
    - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (2) The bottom of all openings shall be no higher than one foot above grade; and
    - (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. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of 11-605.B. of this chapter.
4. Standards for Manufactured Homes and Recreational Vehicles
  - a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevation and anchoring.
  - b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
    - (1) The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation on a permanent foundation;
    - (2) The manufactured home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; and,
    - (3) In or outside of an existing or new manufactured home park or subdivision, or in an expansion of in existing manufactured home park or subdivision, on which a manufactured home has incurred

"substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of 11-605. B.4.b.i. and ii. above.

- c. All recreational vehicles placed on sites must either:
  - (1) Be on the site for fewer than 180 consecutive days;
  - (2) Be fully licensed and ready for highway use; or
  - (3) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of 11-605. B.4.a. or b.i. and ii, above.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

In all areas of special flood hazard where base flood elevation data or floodway data have not been provided, the provisions of 11-604. C.8. shall be utilized for all requirements relative to the base flood elevation or floodways.

**C. Standards for Areas of Special Flood Hazard Zones A1-30 and AE With Established Base Flood Elevation But Without Floodways Designated**

Located within the areas of special flood hazard established in 11-603. B, where streams exist with base flood data provided but where no floodways have been provided, (zones A1-30 and AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with 11-605B.

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

Located within the areas of special flood hazard established in 11-603, B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
2. All new construction and substantial improvements of nonresidential buildings shall:
  - a. Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade; or,
  - b. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

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

Located within the areas of special flood hazard established in 11-603. B. are areas of the 100-year flood protected by a flood protection system which is under construction but where base flood elevations and flood hazard factors have not been determined. With these areas (A-99 Zones) the following provisions apply:

1. All provisions of 11-604. and 11-605. A. and G. shall apply.

**F. Standards For Unmapped Streams**

Located within Gallaway, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream along each side of the stream, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the locality.
2. When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with 11-604. B.2.

G. Standards for Subdivision Proposals

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

- 1 All subdivision proposals shall be consistent with the need to minimize flood damage.
- 2 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- 3 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 4 Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres.

**11-606 - VARIANCE PROCEDURES**

The provisions of this section shall apply exclusively to areas of special flood hazard.

A. Commission of Zoning Appeals

- 1 The Gallaway Commission of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- 2 Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- 3 In passing upon such applications, the Commission of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a. The danger that materials may be swept onto other property to the injury of others;
  - b. The danger to life and property due to flooding or erosion;
  - c. The susceptibility of the proposed facility and its contents to flood damage;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
  - j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Commission of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
2. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
4. The Building Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

# CHAPTER 7

## OFF-STREET PARKING AND LOADING REGULATIONS

### **11-701. - Off-Street Parking**

#### **A. General**

There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking space with adequate provision for ingress and egress by standard-sized vehicles in accordance with the requirements of this code

#### **B. Parking space requirements.**

##### **1. Required number**

The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 701.2.1, provided that any fractional parking space be computed as a whole space.

##### **2. Combination of uses**

Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

##### **3. Location of lot**

The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet (152m) radically from the subject lot within the same or less-restrictive zoning district.

#### **C. Parking stall dimension**

##### **1. Width**

A minimum width of 9 feet (2743 mm) shall be provided for each parking stall.

Exceptions:

a. Compact parking stalls shall be permitted to be 8 feet (2438 mm) wide.

b. Parallel parking stalls shall be permitted to be 8 feet (2438 mm) wide.

c. The width of a parking stall shall be increased 10 inches (254 mm) for obstructions located on either side of the stall within 14 feet (4367 mm) of the access aisle,

#### **D. Design of parking facilities**

##### **1. Driveway width**

Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

a. Private driveways at least 9 feet (2743 mm).

b. Commercial driveways:

(1) Twelve feet (3658 mm) for one-way enter/exit

(2) Twenty-four feet (7315 mm) for two-way enter/exit

##### **2. Driveway and ramp slopes**

The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways, and ramps shall be provided in accordance with the standards set by the code official and the jurisdiction's engineer.

##### **3. Stall accessibility.**

Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

##### **4. Compact-to-standard stall ratio**

The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 2.

##### **5. Screening**

A three (3) foot high (914 mm) buffer at the public way shall be provided for all parking areas of five or more parking spaces.

6. Ratio of Spaces to Square Footage

**Table 701.1 Off-Street Parking Schedule**

Use	Number of parking Spaces Required
Dwelling Units	2/dwelling unit
Office	1/300 gross square feet
Retail	1/200 gross square feet
Restaurant	1/100 gross square feet
Health Club	1/100 gross square feet
Warehouse	1/500 gross square feet
Assembly	1/300 gross square feet
Medical Office	1/200 gross square feet
Schools	1/3.5 seats in assembly rooms plus 1/faculty member
Hotels/Motels	1/guest room 1/500 square feet of common area
Industry	1/500 square feet

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

7. All parking stalls shall be striped

Exception: A private garage or parking area for the exclusive use of a single-family dwelling.

8. Lighting. All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

**11-702. - LOADING SPACES**

A. General

Loading spaces shall be provided on the same lot for every building over 10,000 Square feet in area in the GC, NC, or GI zones. The BZA shall be authorized to waive this requirement on unusual lots. If more than one loading dock or area is to be used each area shall have a loading space as required below.

B. Size

Each loading space shall have a clear height of 14 feet. The minimum area of a loading space shall be 660 square feet and the minimum dimensions shall be 55 feet long and 12 feet deep.

# CHAPTER 8

## PROVISIONS GOVERNING NONCONFORMING USES

### **11-801. - STATEMENT OF PURPOSE**

In order to guide the development of compatible land use patterns in Gallaway, nonconforming uses that adversely affect the development of such areas must be subject to certain limitations. The provisions of this article are designed to provide a gradual remedy for existing undesirable conditions that result from incompatible nonconforming uses. While such uses are generally permitted to continue, these provisions are designed to restrict further investment in these uses.

In the case of a few objectionable nonconforming uses that are detrimental to the character of certain districts, a reasonable statutory period is established during which these uses shall be terminated. In the case of buildings or other structures not complying with the bulk regulations of this ordinance, these provisions are established to permit the appropriate use of these structures while preventing the creation of additional non-compliance.

The provisions are thus designed to preserve the character of the districts established in this ordinance and thus to promote and protect the public health, safety and general welfare.

### **11-802. - PROVISIONS GOVERNING NONCONFORMING USES**

#### **A. Applicability**

The provisions of this section apply to all uses that are not permitted within the districts in which they are located. These provisions also apply to all uses in flood hazard districts that do not meet floodproofing standards.

#### **B. Continuation of Nonconforming Use**

Any nonconforming use that existed lawfully at the time of enactment of this ordinance, or any use that shall become nonconforming upon enactment of this ordinance and subsequent amendments may be continued subject to the following provisions.

#### **C. Variances and Conditional Uses**

Whenever the zoning ordinance in effect at the time of adoption of this ordinance has authorized a use by issuing a variance or conditional use permit, such authorization may be continued in accord with the conditions which were established at the time the variance or conditional use was granted.

When such use was authorized subject to a term of years, that use may be continued until the expiration of the term, and thereafter, the Commission of Zoning Appeals may, in appropriate cases, extend the period of continuance for one or more terms of not more than five (5) years each. The Commission of Zoning Appeals may prescribe appropriate conditions and safeguards to minimize the effects of such use on the character of the neighborhood.

#### **D. Repairs, Alterations and expansions of Non-conforming use**

##### **1. Incidental Alterations**

Incidental alterations as defined by this ordinance may be made to a building or structure occupied by a non-conforming use.

##### **2. Alterations Other Than Incidental Alterations**

No alterations other than Incidental alterations shall be made to a building or other structure occupied by a nonconforming use except when made:

- a. In order to comply with requirements of law regarding fire protection, safety of the structure, etc.
- b. In order to conform to the applicable district regulations.

##### **3. Repair of Non-Conforming Use**

No structure used for a non-conforming use shall be rebuilt or repaired after damage exceeding seventy-five (75) percent of replacement cost unless the use and structure conform to the provisions of this ordinance.

No structure used for a non-conforming use shall be expanded except in conformity with this ordinance.

The non-conforming use of land, not involving a building or structure, or involving a use or structure that is Incidental or accessory to the principal use of the land, shall not be expanded beyond the area it occupies.

E. Change of Non-Conforming Use

1. General Provisions

For the purpose of this ordinance, a change in use is a change in the type of activity' however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements

In all districts, a nonconforming use of land, not involving a building or structure, or involving a use or structure that is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Change of Non-conforming Use to Non-Conforming Use

In all districts, a nonconforming use or structures may not be changed to another non-conforming use.

F. Discontinuance

No non-conforming use, structure or use of land shall be reestablished after discontinuance of one year.

G. Special Exception for Non-conforming Commercial and Industrial Uses.

For any non-conformities created after the passage of Chapter 279 of the Public Act of 1973 of the State of Tennessee the following shall apply:

1. Any industrial or commercial nonconforming use created after the passage of Chapter 279 of the Public Act of 1973 shall be permitted to continue in operation provided that no change in the use of the land is undertaken by such industry or business.
2. Such nonconforming commercial and industrial use shall be allowed to expand operations and construction additional facilities which involve an actual continuance ad expansion of the activities of the industry or business which were activities of the industry or business which were permitted and being conducted prior to the zoning change which crated the nonconforming use, provided that there is a reasonable amount of space for such expansion on the property owned by such business or industry situated in the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.
3. Such nonconforming commercial and industrial use shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business provided that no destruction and rebuilding shall occur which changes the use classification of the nonconforming use. A building permit shall not be denied to such a nonconforming commercial or industrial use provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.
4. The provisions of this section shall apply only to land owned and in use such affected business or industry, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land.

**11-803. - NONCOMPLYING BUILDINGS OR OTHER STRUCTURES**

A. General Provisions

The provisions of this section shall control building and other structures which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.

B. Continuance of Use

The use of a non-complying building or other structure or parcel may be continued, except as other wise provided by this ordinance.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in non-complying buildings or other structures subject to the provisions found below.

D. Enlargements of Conversions

A non-complying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of a building or other structure.

1. Buildings Noncomplying as to Lot Area

If a building does not comply with the applicable district regulations on lot area per dwelling unit (lot area of zone lot being smaller than required for the number of dwelling units on such zone lot) such building may be converted (and, in mixed use buildings, the residential use may be extended, except when in the Flood hazard District), provided that the deficiency in the required lot area is not thereby increased (for example, a noncomplying building on a zone lot of 2,500 square feet, which before conversion required a lot area of 4,000 square feet and was, therefore, deficient by 1,500 square feet, can be converted into any combination of dwelling units requiring a lot area of no more than 4,000 square feet.

E. Damage or Destruction on Noncomplying Uses

1. Permitted Reconstruction

In all districts, when a non complying building or other structure is damaged by any involuntary means to the extent of seventy-five (75) percent or more of its total floor area, such building or other structure may be reconstructed in accordance with the applicable bulk regulations and other provisions of this ordinance.

2. Use of Alternate Formula

In any case where the applicant or building inspector alleges that floor area is an inappropriate measure to the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Commission of Appeals to determine the extent of such damage or destruction. Said Commission may grant such application permitting such a building or other structure to be reconstructed as provided in 11-803 (E) (1) only when the Commission finds that the ratio which the estimated cost of reconstructing the damage or destroyed portion of such building or structure is not greater than seventy-five (75) percent or the estimated cost of reconstructing the entire building or structure.

# CHAPTER 9

## ADMINISTRATION AND ENFORCEMENT

### 1-901. - ORGANIZATION AND PURPOSE

The administration of this ordinance is hereby vested in office of the government of the City of Gallaway, Tennessee as follows:

The Commission of Zoning Appeals

It is the purpose of this article to set out the authority of each of these two offices and then describe the procedures and substantive standards with respect to the following administrative functions:

Variances

Conditional Use Permits

Amendments

### 11-902. - COMMISSION OF ZONING APPEALS

#### A. Termination of Existing Commissions

The functioning of the existing Commission of Zoning Appeals shall terminate upon appointment of the Commission of Zoning Appeals as authorized under this ordinance and as provided by Section 13-7-205 Tennessee Code Annotated.

#### B. Creation of Appointment

A Commission of Zoning Appeals is hereby established in accordance with Section 13-7-205, Tennessee Code Annotated. The Commission of Zoning Appeals shall consist of five (5) members, not more than two (2) of who shall be members of the Gallaway Municipal Planning Commission. They shall be appointed by the Chief Executive Officer of the City of Gallaway. The terms of membership shall be five (5) years, except that the terms of four of the members first appointed shall be one (1), two (2), three (3) and four (4) years respectively. Vacancies shall be filled for an unexpired term by appointment by the Chief Executive Officer and confirmed by the City Commission.

All members of the Commission shall serve with such compensation as may be fixed by the City Commission and may be removed from membership by a majority vote of the City Commission for continued absence or just cause. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision.

#### C. Powers of the Commission

The Commission is hereby vested with the powers to:

- 1 Hear and decide appeals from any order, requirement, decision, or determination made by the building inspector in carrying out the enforcement of this ordinance, whereby it is alleged in writing that the building inspector is in error or has acted in an arbitrary manner;
- 2 hear and act upon application for variances in accordance with Section 11-905 of this Chapter to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reasons of unique shape, topography, or physical features of the zone lot;
- 3 Hear and decide, in accordance with the provisions of this ordinance requests for conditional use permits.
- 4 Hear and decide all matters referred to it on which it is required to act under this ordinance;
- 5 Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.
- 6 Interpretation

#### D. Election of Officers

The Commission shall elect from its members its own chairman and vice-chairman, and secretary who shall serve for 1 year and may upon election serve succeeding terms.

#### Conflict of Interest

Any member of the Commission who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the Commission shall be disqualified from participating in the discussion, decision, and proceedings of the Commission of connection therewith. The burden of revealing

any such conflict rests with individual members of the Commission. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Commission.

F. Meetings of the Commission

Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.

G. Rules and Proceedings of the Commission

The Commission shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- 1 The presence of three members shall constitute a quorum and the concurring vote of at least three members of the Commission shall be necessary to deny or grant any application before the Commission.
- 2 No action shall be taken by the Commission on any case until after a public hearing and notice thereof. Said notice of public hearing shall be published in a newspaper of general circulation in Gallaway at least 15 days before the date set for a public hearing and a written notice of the hearing be sent by mail to the appellant and all directly affect property owners at least 5 days before the hearing. The notice to appellant shall be sent by registered mail.
- 3 The Commission may call upon any other office or agency of the city government of information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Commission as may be reasonably required;
- 4 The Gallaway Planning Commission shall be permitted to submit an advisory opinion on any matter before the Commission and such opinion shall be made part of the record of such public hearing;
- 5 Any officer, agency or department of the city of Gallaway or other aggrieved party may appeal any decision of the Commission to a court of competent jurisdiction as provided for by state law;
- 6 In any decision made by the Commission on a variance, the Commission shall:
  - a. Indicate the specific section of this ordinance under which the variance is being considered, and shall state its finding beyond such generalities as "in the interest of public health, safety and general welfare";
  - b. In cases pertaining to hardship, specifically identify the hardship warranting such action by the Commission;
7. Any decision made by Commission on a conditional use permit shall indicate the specific section of this ordinance under which the permit is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety, and general welfare," and shall state clearly the specific conditions imposed in granting such permit;
8. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeal may be advanced for hearing in order of the Commission, good and sufficient cause being shown;
9. At the public hearing of the case before the Commission, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

H. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Commission after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. The such instance, the proceedings shall not be stayed other than by a restraining order, which may be granted by the Commission or by a court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

I. Right to Entry Upon Land

The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this ordinance.

## **11-903. - ZONING VARIANCES**

The Commission of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this chapter.

A. Application for Variances, Notice of Hearing, Fee

A written application for a variance shall be filed with the Commission by the property owner or his designated agent on forms provided by the Commission and the application shall contain information and exhibits as may be required under 11-903 (B). No more than 60 days after the filing of the application, the request shall be considered by the Commission, unless otherwise withdrawn or postponed by written request by the applicant. A fee payable to the City of Gallaway shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

B. Notice to Affected Property Owners

Notice to affected property owners and to the general public shall be given in conformance with the procedure set out in 11-904(G) (2) of this ordinance.

C. Standards for Variances

The Commission shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- 1 The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out;
- 2 The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
- 3 The variance will not authorize activities in a zone district other than those permitted by this ordinance;
- 4 Financial returns only shall not be considered as a basis for granting a variance;
- 5 The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance.
- 6 That granting the variance requested will not confer on this applicant any special privilege that is denied by this ordinance to other lands, structures, or building in the same district;
- 7 The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- 8 The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
- 9 The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

D. Non-Conformity Does Not Constitute Grounds for Granting of a Variance

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

E. Prohibition of Use Variances

Under no circumstances shall the Commission of Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

F. Conditions and Restrictions by the Commission

The Commission may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in 11-905(C) to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this ordinance.

G. Commission Has Power of Administrative Official on Appeals; Reversing Decision of Administrative Official

In exercising its powers, the Commission of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative official from whom the appeal is taken.

H. Variance Appeals

Any person including any agency of the city government aggrieved by a decision of the Commission on a variance may appeal by certiorari to a court of competent jurisdiction, the judgment and findings of the

Commission on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final and subject to review only for illegality or want of jurisdiction.

## **11-904. - CONDITIONAL USE PERMITS**

### **A. Conditional Uses**

The Commission of Zoning Appeals may here and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code Annotated.

### **B. Application for conditional Use Permit, Notice of Public Hearing**

The application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the Commission on forms provided by the Commission, and shall contain information and exhibits as may be required under 11-903(B) or in the case of buildings or other structures or uses to be located within flood plain districts, as may be required by 11-602(C). Not more than 60 days after filing such applications, a hearing shall be held in accordance with 11-904(G) (2). A fee payable to the City of Gallaway shall be charged to partially defray cost of review and processing for each application for a conditional use permit, except that the fee shall be waived for any governmental agency.

### **C. Requirements for Conditional Use Permit**

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The Commission may impose such other conditions and restrictions upon the premises benefited by a conditional use permitted as may be necessary to comply with the provisions set out in 11-906(D) through 11-906(G) in order to reduce or minimize the injurious effect of such conditional use upon and insure compatibility with surrounding property and to better carry out the general intent of this ordinance. The Commission may establish expiration of any conditional use permit as a condition of approval.

### **D. General Requirements**

A conditional use permit shall be granted provided the Commission finds that it:

- 1 Is so designed, located, and proposed to be operated so that the public health, safety and welfare will be protected;
- 2 Will not adversely affect other property in the area in which it is located;
- 3 Is within the provisions of "Conditional Uses" as set forth in this ordinance; and
- 4 Conforms to all applicable provisions of this ordinance for the district in which it is to be located and is necessary for public convenience in that location.

### **E. Specific Standards for Community Facility Activities**

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit shall be granted for the community facility activities specified in 11-906(3) (1) through 11-906 (E) (7) when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

#### **1. Special Conditions for Day Care Centers, Group Day Care Homes**

- 1 All other bulk regulations of the district shall be met.
- 2 Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up movements by vehicles to enter or exit the zone lot.
- 3 All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Public Health Department.
- 4 All regulations of the State of Tennessee and the Department of Human Services that pertain to the use shall be met.
- 5 The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.
- 6 Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area from such facilities.

7 The site are architectural plans for such a facility shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

2. Special Conditions for Country Clubs

1 No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district; provided, however, that if such use includes outdoor activities the minimum lot area shall be 4 acres.

2 All bulk regulations of the zone district shall apply.

3 Fencing, screening and landscaping shall be provided as appropriate for such facility, except that no landscaped screen shall be located closer than 15 feet to any vehicular entrance or exit to the property.

4 The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.

5 All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Public Works.

6 The site and/or architectural plans shall first be approved by the Planning Commission taking into account the above conditions.

3. Special Conditions for Non-Profit Museums, Art Galleries, Libraries, Observatories

1 No such activities shall be permitted on a zone lot unless it contains twice the lot area requirements of the zone district.

2 All bulk regulations of the zone district shall apply.

3 Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area from such facilities.

4 The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on properties within the surrounding area.

5 The site and architectural plans shall first be approved by the Planning Commission taking into account the above conditions.

4. Special Conditions for Electrical Substations, Gas Substations, police and fire stations

1 The location of such facility shall be within a certain service area in order to provide the most efficient service to such area.

2 All of the bulk regulations of the zone district shall apply.

3 The location of such facility shall not materially increase traffic on surrounding streets.

4 The location of such facility shall not have an adverse effect on surrounding properties.

5 There shall be provided along the entire site boundaries fencing, screening, and landscaping as appropriate to protect the surrounding residential area.

6 The site plans for such facility shall first be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

5. Special Conditions for Airports, Air cargo terminals, heliports and any other aeronautical device, major mail processing centers, military installations, public and private utility corporations or truck yards, radio and television transmission stations, railroad, bus and transit terminals, railroad yards and other transportation equipment marshaling and storage yards, stadiums, sports arenas, auditoriums and bandstands, zoological gardens, electric transmission lines, and major fuel transmission lines, cemeteries, mausoleums, colleges, junior colleges, universities, golf courses, reservoirs and water tanks, sewage disposal treatment plants and water production - treatment facilities

a. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.

b. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.

c. The proposed facility shall provide a basic community function or essential service necessary for convenient and functional living environment in order to be located on the proposed site.

- d. The site plan for such facilities shall first be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facilities.

F. Specific Standards for Commercial Activities

A conditional use permit shall not be granted for the commercial activities specified in 11-906 (f) (1) through 11-906 (F) (3) unless the standards established therein are met as a part of the conditions for using such permit in the applicable districts.

1. Special Conditions for Scrap Operation Activity in GI Districts

- 1 The location and topography of the site shall be situated so that fencing, screening, and landscaping can be provided as appropriate.
- 2 The scrap operation shall not include any open burning activity on the site
- 3 The bulk regulations and performance standards of this ordinance shall apply.
- 4 Insect and rodent control measures shall be provided as approved by the County Health Department.
- 5 All required fences and landscaped screens shall be maintained in a neat and attractive manner.
- 6 The operation of such facility shall not have an adverse effect on the properties in the surrounding areas.
- 7 The operation and location of such facility shall not produce damaging pollution to surrounding streams.

2. Special conditions for Drive-in Movies, Amusement Parks, Fairgrounds, and Golf Driving Ranges

- 1 The location, size and design of such facilities shall be situated so that the proposed development shall be compatible with the development within the surrounding area thus reducing the impact upon the surrounding area.
- 2 The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
- 3 The site plan for such facilities shall first be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facilities.

G. Specific Standards for Mining and Quarrying Activities

A conditional use permit shall not be granted for the mining activity specified in 11-906 (g) (1) unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

1. Special Conditions for Mining and Quarrying Activity

- a. The location of such an activity shall be in an area sparsely developed during the length of time the mining or quarrying activity is anticipated.
- b. Any permit issued hereunder shall be based on a site plan or other documents submitted with an application that shall provide for the following:
  - (1) Existing contours of the site and up to 100 feet beyond the site boundary. Contour intervals shall be at 2-foot intervals.
  - (2) Location of the area in which the proposed quarrying activity is to be conducted.
  - (3) Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.
  - (4) Proposed method of drainage of the quarry area.
  - (5) Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.
  - (6) Methods proposed for blasting. Open blasting commonly referred to as "pop shots" shall be prohibited.
  - (7) Methods proposed to control noise, vibration and other particulate matter in order to meet the performance standards as set out in this ordinance.
  - (8) Finished contours of the site after the quarrying operation has been terminated. The site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding

lands. All fill materials shall be non-toxic, non-flammable, and non-combustible solids. All areas that are back-filled shall be left so that adequate drainage is provided.

- c. Approval for mining and quarrying activities may also include accessory concrete batching plants, asphaltic cement mixing plants and/or rock crushing activities on the same zone lot or adjoining zone lots which may have directly opposing frontage on the same public street. If such accessory activities are included on the quarry site, the total site must meet all the special condition requirements for mining and quarrying activities; however, in conditions of multiple zone lots, the outer perimeter of the site shall be considered the lot line.
- d. Before issuing a permit the Commission shall require the owner of the quarry facility to execute a bond, which the amount of would cover the cost throughout a five year period to restore the lands in the manner prescribed herein, including the removal of all structures and machinery.
- e. Any permit issued herein under shall not be for a period exceeding five years. After the expiration date of such special permit, the Commission may review and grant an extension of time in the manner and procedure as prescribed for any original application, and
- f. The site plan is first approved by the Planning Commission taking into account the above conditions as well as nay other factors related to the use and operation of such facilities.

## **11-905. - AMENDMENTS**

### **A. General**

The City Commission may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error tin the original zoning ordinance or whenever the public necessity convenience and general welfare require such amendment.

### **B. Initiation of Amendment**

Amendments may be initiated by the City Commission, the Planning Commission or by an application of one or more owners or agents of property affected by the proposed amendment.

### **C. Application for Amendment - Fee**

An application by an individual for any amendment shall be accompanied by a fee payable to the City of Gallaway, and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area and that pubic necessity, convenience, and general welfare require the adoption of the proposed amendment. Specifically, the application shall contain the following information:

- 1 Name, address and telephone number of applicant;
- 2 If different from the applicant, the name, address and telephone number of the owner or other person having a contractual interest in the property for which a zoning district amendment is requested.
- 3 A plot plan drawn to a scale of 1:100 and legal description of each parcel of property proposed to be reclassified;
- 4 A vicinity map drawn to a scale of 1:200 showing the subject property and all other parcels within 500 feet of the lot edges, such vicinity map shall indicate the owner's name and dimensions of each parcel shown.
- 5 A list of the names and addresses of the owners of each parcel of property shown on the vicinity map;
- 6 Present zoning classification and use of each parcel of property for which a zoning amendment is requested;
- 7 If an amendment to the zoning map is requested, the zoning classification requested for each parcel which is the subject of the application;
- 8 If an amendment to the text of the Zoning Ordinance is requested, the language of the proposed text amendment and a statement of the reason for the requested amendment;

### **D. Review and Recommendation by the Planning Commission**

The Planning Commission shall review and make recommendations to the City Commission on all proposed amendments to this ordinance.

### **E. Grounds for an Amendment**

The Planning Commission in its review and recommendation and the City Commission in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall not the same in the official record as follows:

- 1 The amendment is in agreement with the general plan for the area;
- 2 It has been determined that the legal purposes for which zoning exists are no contravened;
- 3 It has been determined that there will not be adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare.
- 4 It has been determined that no one property owner or shall group of property owners will benefit materially from the change to the detriment of the general public;

F. Public Hearing and Notice of Hearing

A public hearing shall be held on all proposed amendments to this ordinance prior to the final reading by the City Commission Notice of such hearing shall be displayed as follows:

1. The City Recorder shall give notice in a newspaper of general circulation within the City of Galloway at least five (5) days but no more than 30 days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification and it may contain a graphic illustration of the area.
2. At least five (5) days prior to the public hearing before the City of Commission the affected property owners and all adjoining property owners, including those separated by a public way shall be notified by the City Recorder by mail of the proposed amendment, and the time, date and place of public hearing.

G. Amendments Affecting Zoning Map

Upon enactment of an amendment to the zoning map that is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

H. Effect of Denial of Application

Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one year following such denial, except in the following cases:

- 1 Upon initiation by the City Commission, or Planning Commission;
- 2 When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
- 3 When the previous application was denied for the reason that the proposed zoning would not conform to the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

## **11-906. - REMEDIES AND ENFORCEMENT**

A. Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Inspector. The Building Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided in this ordinance.

B. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirement (including violations of conditions and safeguards established in connection with grants of variances, site plan review, or conditional uses) shall constitute a misdemeanor and shall be punished as provided for by law. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offence and suffer the penalties herein provided.

C. Remedies

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building or other structure or land is or is proposed to be used in violation of this ordinance, the Building Inspector or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other

remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the building inspector may, in addition to other remedies, notify all public utilities and municipal services departments of such violation and request that initial or re-establishment of or other structure or premises are no longer in violation of these regulations, and each such utility or department shall comply with such request.

# CHAPTER 10

## LANDSCAPING SITE DEVELOPMENT STANDARDS

### **11-1001. - STATEMENT OF PURPOSE**

#### **A. General Purpose**

The purposes of this ordinance are to promote the health, safety, and public welfare in the City of Gallaway, and be consistent with forestry policy and practice for urban areas promulgated by the Division of Forestry of the State of Tennessee: (1) To encourage the planting of trees and landscaping in the City of Gallaway, (2) To encourage the maintenance and protection of existing trees, and, (3) To encourage the removal of undesirable or diseased trees.

#### **B. Standards**

The standards herein are hereby established in order to lessen air pollution, to promote clean air quality by increasing dust filtration, to reduce noise, heat, and glare, to prevent soil erosion, to improve surface drainage and minimize flooding, to ensure that activities in one area do not adversely affect activities within adjacent areas, to emphasize the importance of trees as a visual screen, to beautify and enhance improved and undeveloped land, to maintain the ambiance of the City, to ensure that tree planting and removal does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters.

### **11-1002. - DEFINITIONS**

- A. AAN - American Association of Nurseryman upon which the quality and measurement of plant materials for this ordinance shall be based.
- B. Caliper Inches - For trees larger than four inches (4"), the quantity in inches of the diameter of a tree measured one foot above the ground. For trees up to and including four inches (4"), the quantity in inches of the diameter of the tree measured six inches (6") above the ground.
- C. Canopy or Shade Tree - Any deciduous tree maturing at a height of at least thirty (30) feet or greater that would occupy the upper canopy of a forest.
- D. Conifer Tree - Any tree with needle leaves and a woody cone fruit.
- E. Deciduous Tree - Any tree which sheds its leaves in the fall or winter.
- G. Endangered Species - Those trees which are under the protection of State and/or Federal law.
- H. Evergreen - Those trees, including broad-leaf and conifer trees that maintain their leaves year round.
- I. Landscape Surface Area - The area of the site not devoted to paving or buildings. Fountains and retention facilities shall be counted as part of the landscape area.
- J. Line Clearance - Removal of limbs and branches within a set distance of utility lines.
- L. Pruning - Selective removal of the upper portions of any tree, taking into account the natural shape and structure of the tree.
- O. Street Tree - Any tree within a public right-of-way along a road, street, median, or in a similar area in which the public right-of-way borders areas owned by private citizens.
- P. Supplemental Tree - Any tree being planted on a site which is in addition to existing trees and replacement trees.
- Q. Topping - The non-selective removal of the top portions of any tree without regard to the natural shape and structure of the tree.
- R. Tree - Any living, self-supporting woody or fibrous plant that is a conifer, evergreen, deciduous, or ornamental, as defined herein.
- S. Understory Tree - Any deciduous tree maturing at a height of less than thirty (30) feet that would occupy the understory of a forest.

### **11-1003. - TREE PLANTING**

#### **A. Planning Commission Requirements**

1. The Planning Commission shall in the normal course of its approval process, require the planting of public trees or private trees to replace trees which have been removed, destroyed, or severely damaged during the courses of development or construction, except that in no case shall replacement trees be required in excess of the minimum established in this ordinance.
2. The Planning Commission shall in the normal course of its approval process, require the planting of public trees or private trees to supplement the trees on any site proposed for development, except that in no case shall supplemental trees be required in excess of this ordinance.

### **11-1004. - TREE PROTECTION**

#### **A. Public Trees**

It shall be unlawful for any person to remove or cause to be removed any public tree or other wood plant, whether such plants are trees as defined herein, or smaller flora which are part of the understory, shrub layer, or herb layer, of any size or of any species without first obtaining the permission of the Planning Commission or its designee.

### **11-1005. - MAINTENANCE**

#### **A. Private Property**

The owner of private property shall be responsible for the maintenance, repair, and replacement of all landscaping materials required by this Chapter.

#### **B. Public Property**

The Public Works Department shall be responsible for pruning, watering, fertilizing, insect and disease control, and other tree care to keep all public trees reasonably healthy and to minimize the risk of hazard to residents and visitors to the city.

#### **E. Right of Way**

The Public Works Department may remove, prune, fertilize, water, or otherwise treat with insecticides, fungicides, herbicides, or other means, any private tree which overhangs any public right-of-way, comes in contact with overhead utility lines, creates any traffic hazard by restricting visibility, or poses a health risk to other plants, animals, or person by disease or insect infestation.

### **11-1006. - PLANTING REQUIREMENTS**

#### **B. Plant List**

All existing and proposed landscape materials shall be labeled as to size, quantity, and name on the Landscape Plan.

#### **G. Landscape Integration**

Landscaping shall be integrated into building arrangements, topography, parking, and buffering requirements. Landscaping shall include trees, shrubs, ground cover, and the use of building and paving materials in a manner that respects the natural topographic features and natural resources of the site.

#### **H. Utility Avoidance**

1. Trees shall not be planted within 5 feet of underground utilities. Street or canopy trees shall not be planted within 10 feet of the alignment of overhead utility lines.
2. Trees shall not be planted closer than 10 feet to a fire hydrant, utility pole, or street light.

#### **I. Visibility**

A "clear site triangle" shall be maintained at the intersections of driveways and streets and where streets intersect (see Section 11-105 B.).

1. The only planting allowed within the "clear site triangle" is grass, ground cover, or shrubs maintained at 30 inches or less. No trees shall be allowed within the triangle. Foliage from adjacent trees should be cleared and maintained to a height of 6 feet above the ground surface to insure visibility.
2. Where a driveway intersects a street, the triangle shall be measured 10 feet each way from the point of intersection at the right-of-way (see illustration A).
3. Where a street intersects a street, the triangle shall be measured 35 feet back from the point of intersection of the roadways (see illustration B). A driver should have a clear sight area along the intersecting road from the corner for 250 feet.

**11-1007. - LANDSCAPING REGULATIONS FOR MULTI-FAMILY (WITH MORE THAN 3 UNITS), COMMERCIAL AND INDUSTRIAL SITES**

**B. Landscape Zones**

1. All site boundaries fronting onto streets shall have a Landscape Zone consisting of an unpaved area planted in grass or mulched with bark. The area shall be landscaped with trees (and shrubs if the developer so desires). The zone shall be a minimum of 10 feet wide facing two lane streets and 20 feet wide facing four lane streets. This shall be behind the property line between right-of-way and any paving. No parking or structures (except signs) will be allowed in the Landscape Zone. At least one tree for every 30 linear feet or portion thereof shall be planted in the landscaped strip; however, this shall not be construed as requiring the planting of trees on thirty (30) foot centers.
2. The preferred trees for Landscape Zones facing streets are canopy or shade trees. In the event overhead, underground utilities or other conditions are present, understory trees may be planted.
3. All site boundaries facing adjacent properties shall have an unpaved Landscape Zone. At least one tree for every 30 linear feet or portion thereof shall be planted in the landscaped strip. A minimum zone five (5') wide shall be provided for parcels less than two (2) acres; a minimum zone to (10') wide shall be provided for parcels two (2) acres or more. The Landscape Zone shall be increased if there is a larger buffer required because of a zoning or land use difference between properties.
4. The preferred trees for Landscape Zones facing adjacent properties are canopy or shade trees and evergreen trees. In the event overhead or underground utilities are present, 1½" caliper understory trees may be planted.
5. In the event the proper number of trees can not be planted in the Landscape Zones because of utilities or site development problems, the trees shall be placed elsewhere on the property.

**C. Parking Lot Landscaping**

1. Landscaped parking islands shall be provided at the end of all rows of parking. Islands shall intersperse every 12 parking spaces.
2. Parking islands shall be covered with 2-3" shredded bark or turf. Paving or covering islands with rock shall not be acceptable. Landscape parking islands shall have a minimum of 18" deep topsoil and built with a minimum interior width of 5 feet.
3. One (1) canopy tree per eighteen (18) linear feet of island shall be required. Other landscape materials and understory trees may compliment the island plantings. Where utilities present a problem, understory trees may be substituted for the canopy trees.

**D. Screening**

1. A 6 foot height screen shall be planted and/or fence shall be erected between parcels of land with different uses such as commercial and residential, and to screen unsightly elements such as dumpsters, air conditioner units, or storage areas. A landscape screen shall consist of a minimum of 6 foot height evergreen shrubs or trees planted a maximum of 12 feet on center.
2. Additional screening may be requested at the discretion of the Planning Commission or request of Planning Staff.

**11-1008. TREE LIST**

Recommended Tree List:

Ash	Linden
Beech	Locust (improved varieties)
Crape Myrtle	Magnolia
Flowering Crabapple	Maple
Ginkgo (male only)	Oak
Pine	Spruce
Goldenrain Tree	Sweetgum (improved variety)
Hemlock	Redbud
Holly	Tulip Poplar
Hornbeam	Zelkova
Leyland Cypress	

Undesirable Tree List: These trees shall not be allowed as new plantings. However, if they are existing trees in good condition, they may remain as a part of the Landscape Plan.

Black Locust	Siberian Elm
Black Walnut	Silver Maple
Cottonwood	Weeping Willow

## CHAPTER 11 PROVISIONS GOVERNING SIGNS

### **11-1101. - STATEMENT OF PURPOSE**

The regulations set forth herein are established in order to promote and protect public health, safety, comfort, prosperity, welfare, and in order to accomplish the following specific purposes: to enhance the economy, business, and industry of Gallaway by promoting the reasonable, orderly, and effective use and display of signs; to enhance the physical appearance of the city; to protect the general public from damage and injury which might be caused by the faulty and uncontrolled construction and use of signs within the city; to protect the public use of streets and highways by reducing sign or advertising distractions that may increase traffic accidents; to project the physical and mental well being of the general public by recognizing and encouraging a sense of aesthetic appreciation for the visual environment; and to preserve the value of private property by assuring the compatibility of signs with surrounding land uses.

### **11-1102. - DEFINITIONS**

Abandoned/Obsolete Sign - any sign which identifies or advertises a business, lessor, service, owner, product, or activity, which is no longer available at the indicated location or no longer available on the premises or for which no legal owner can be found.

Animated sign - A sign that uses movement or change of light to depict or to create a special effect or scene (does not include time, temperature or message signs).

Attached Business Sign - Any sign which is affixed directly to or otherwise inscribed or painted on a wall or parapet wall of any building or structure with the exposed face of the sign in a plane approximately parallel to the plane of such wall and extending there from less than twelve (12) inches.

Awning/Canopy Sign - A sign painted on, printed on, or attached flat against the surface of an awning or canopy projecting from and supported by the exterior wall of a building.

Banner Sign - A sign made of fabric or other non-rigid materials with no enclosing framework. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Building Inspector - The city official or authorized representative charged with the responsibilities of enforcing the chapter.

Business Identification Sign - A freestanding sign identifying a recognized firm, business, or service.

Canopy - An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

Construction Sign - A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Directional/Informational Sign - Any on-premise sign giving directions, instructions, or facility information, e.g., parking or exit and entrance signs, and which may contain the name or logo of an establishment but no other advertising copy.

Flashing Sign - Any directly or indirectly illuminated sign that contains an intermittent flashing light source. (This does not include message center or time/temperature signs.)

Freestanding Sign - Any sign supported by uprights or braces placed on or in the ground and not attached to any building.

Ground Sign - Any sign supported by the ground with little or no vertical clearance.

Height (of a sign) - The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Illegal Sign - Any sign and/or advertising structure erected without a permit required by this Ordinance, or in violation of any of the limitations, prohibitions or requirements of this Ordinance.

Maintenance - For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Message Commission - A sign with changeable, removable letters to allow the user to replace or update the copy on the sign.

Nonconforming Sign - (a) Any sign which was erected legally but which does not comply with subsequently enacted sign regulations and restrictions; (b) A sign which does not conform to the Sign Code requirements but for which a variance has been issued. These signs are grandfathered provided they do not violate the provisions of Section 11-1507(b).

Off Premise Sign - A sign not located on the property that it advertises.

Office Center - Two or more offices having a common parking lot.

Owner - The fee owner of a sign, the lessee of the sign, the fee holder of the property upon which the sign is located, the leaseholder of such property or the individual, person or business who has purchased the copy on a sign.

Political Sign - A sign displaying the name and/or picture of an individual seeking election to a public office or a sign otherwise relating to a forthcoming public election or referendum.

Portable Sign - Any sign which by its construction or nature may be or is intended to be freely moved from one location to another. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category; neither does the anchoring of the sign by means of concrete blocks, sandbags or other types of temporary anchors. Portable signs include, but are not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-Frames; menu and sandwich Commission signs; balloons used as signs; umbrellas used for advertising.

Projecting Sign - Any sign, other than a flat wall sign, which is attached to and projects more than 12" from a building wall or other structure not specifically designed to support the sign.

Public Sign - Any temporary or permanent sign erected and maintained by the City, County, State or Federal Government for traffic direction or for the designation of or direction to any school, hospital, historical site, or public service, property or facility.

Real Estate Sign - Any temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

Residential Districts - Any parcel in the City of Gallaway zoned AR, R-1, R-2 or R-MH.

Roof Sign - Any sign erected, constructed or maintained wholly or partially upon or over the roof line of any building with the principal structural support on the roof or building structure.

Sign - Any object, device, graphic design or part thereof, situated outdoors or indoors and which object, device, graphic design or the effect produced is used to advertise, announce, identify, declare, demonstrate, display, instruct, direct or attract attention by any means including words, letters, figures, designs, fixtures, colors, motion, illumination, sound and projecting images. Any sign requiring a permit is considered to be a structure.

Sign Area - (a) Freestanding, Roof and Projecting Signs: The area enclosed by one continuous line, connecting the extreme points or edges of the sign. The area shall be determined using the largest sign area or silhouette, but excluding the necessary supports or uprights. Two-sided signs constructed back to back shall use the square footage of one side only for compliance. Three-sided signs with no more than 60 degrees between the faces shall be figured using one face only. (b) Attached Business, Awning and Canopy Signs: The area including all lettering, wording, and accompanying design or symbols together with any background. For a sign composed of individual letters or figures, the area is that of the smallest rectangle or other geometric shape that encompasses all the letters or symbols.

Sign Permit - A written permit granted by the Building Inspector for the erection, construction, enlargement, relocation or conversion of any sign for which a permit is required.

Subdivision Identification Sign - A freestanding or wall sign identifying a recognized subdivision, condominium complex or residential development.

Time and Temperature Sign - Electrically controlled public service time, temperature and date signs displayed on a lamp, bank or other electronic display.

Temporary Sign - Any sign, banner, pennant, valance or advertising display or sign constructed of light fabric, cardboard, wallboard, plywood, paper or other light materials, with or without frames, intended to be displayed for a limited period of time, i.e., garage sale, rummage, open house and similar types of signs.

User - The fee user of a sign, the lessee of the sign, the fee holder of the property upon which the sign is located, the leaseholder of such property or the individual, person or business who has purchased the copy of a sign.

Vehicle Mounted Sign - Any sign painted on or attached to a vehicle relating to the business, activity, use, service or product of the owner of the vehicle, or to the sale of the vehicle and which sign is incidental to the primary use of the vehicle.

Window Sign - Any on-premise business sign installed in or on a window and intended to be viewed from the outside.

## **11-1103. - REGULATIONS AND STANDARDS**

### **A. Business Identification Signs**

- 1 Shall be allowed in NC, GC, and GI zones only
- 2 Only one sign per business shall be allowed. The sign shall be no greater than 64 square feet in area per side and shall have no more than three (3) sides. In NC, and GC zones, double signs are allowed. The top sign shall be no greater than 64 square feet and the lower sign shall be no greater than 32 square feet in area. The lower sign may be used for on-premises advertising, community service, or a message Commission.
- 3 Business identification signs must be located a minimum of five (5) feet from the right-of-way of any highway, street, or road, and a minimum of three (3) ft. from the edge of any sidewalk. In no case shall a sign be located on the public right-of-way. The sign shall in no way extend out over the right-of-way. The location must not interfere with traffic or pedestrian vision or safety.
- 4 Lots fronting on two or more streets are allowed the permitted signage for each street frontage. Signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.
- 5 Ground signs are allowed. The height of the sign must not exceed eight (8) feet above the ground elevation.

### **B. Attached Business Signs**

- 1 Shall be allowed in all Business, Commercial and Industrial districts.
- 2 Each business is limited to two (2) attached business sign per building face. The total area of both signs shall be no greater in area than 25% of the face of the wall on which it is located.
- 3 An awning or canopy with the business name or related information is allowed in addition to the business sign. All such awnings or canopies shall be structurally sound and approved by the Building Inspector. The lowest portion shall not be less than eight (8) feet above the ground.

### **E. Residential Signs**

1. Apartment complexes, churches, and schools in residential districts may have a single identification sign not to exceed thirty-two (32) square feet. Lots fronting on two or more streets are allowed the permitted signage for each street frontage. Signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.
2. Nameplates are allowed in residential districts but must be limited to three (3) square feet.

### **F. Projecting Signs**

Projecting signs shall not exceed twenty (20) square feet in area and shall have a minimum of nine (9) feet of clearance above the ground or sidewalk. A projecting sign must be structurally sound and approved by the Building Inspector.

### **G. Portable Signs**

Portable signs will be allowed only for two weeks per calendar quarter per location. They may not utilize flashing lights. All portable signs presently located within the corporate limits shall either have their bulbs removed or be disconnected from their power source within ninety (90) days of passage of these regulations. Portable signs shall not interfere with vehicular or pedestrian traffic. Portable signs in existence on the

effective date of this chapter shall be removed to comply with the provisions of this chapter not later than one year from the effective date of this chapter.

#### H. Real Estate Signs

- 1 Real estate signs are limited to one sign per road frontage, not to exceed thirty-two (32) square feet in area in a residential zone or forty-eight (48) square feet in a commercial or industrial zone. No real estate signs shall have a height greater than twelve (12) feet.
- 2 In multi-unit developments (commercial or industrial), one additional sign per unit, not to exceed ten (10) square feet in area is allowed.
- 3 Real estate signs must be located a minimum of five (5) feet from the right-of-way of any highway, street, or road, and a minimum of three (3) ft. from the edge of any sidewalk. In no case shall a sign be located on the public right-of-way. The sign shall in no way extend out over the right-of-way. The location must not interfere with traffic or pedestrian vision or safety.
- 4 Real estate signs do not require a permit.

#### I. Construction, Lighting, and Maintenance Standards

##### 1. General Regulations

- a. All signs and their locations shall comply with the provisions of the City of Gallaway Zoning Ordinance, the Standard Building Code, the National Electrical Code, current edition, and additional standards hereinafter set forth.
- b. Signs shall not be erected, constructed or maintained so as to obstruct any fire escape, required exit way, window or door opening used as a means of egress, to prevent free passage from one part of a room to another part thereof or access thereto.
- c. Signs shall not be attached in any form, shape or manner which will interfere with any opening required for ventilation, except that such a sign may be erected in front of and may cover transom windows when not in violation of the provisions of the Building or Fire Prevention Codes.
- d. The height of the signs shall in no case exceed the height restrictions for buildings in that zoning district.
- e. In no case shall existing supports, such as utility poles or traffic control sign supports, be utilized for any sign.
- f. All signs shall maintain clearances from overhead electrical connectors as follows:
  - (1) Under six hundred (600) volt, insulated - 3 feet
  - (2) Under six hundred (600) volt, bare - 5 feet
  - (3) Six hundred one (601) volt to twenty-five hundred (2,500) volt - 5 feet
  - (4) Two thousand five hundred one (2,501) volt to nine thousand (9,000) volt - 6 feet
  - (5) Nine thousand one (9,001) volt to twenty-five thousand (25,000) volt - 9 feet
  - (6) Twenty-five thousand one (25,001) volt to seventy-five (75) kV - 10 feet
  - (7) Above seventy-five (75) kV - 12 feet
- g. Signs shall not be suspended by chains or other devices that will allow the sign to swing, due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.
- h. Supports and braces shall be an integral part of the sign design. Angle irons, channels, or wires used for supports or braces shall be hidden from public view to the extent technically feasible.
- i. Freestanding signs shall be self-supporting structures and be permanently attached to sufficient foundations.
- j. Attached business signs must derive their principle and total support from the building to which they are attached.
- k. All signs shall be constructed to withstand wind loads of 30 pounds per square foot on the largest face of the sign and structure.
- l. In no case shall the existing ground elevation be built up in order to have a taller sign.

m. Free hand, spray paint, stencils, and signs not conforming to excepted sign standards, as determined by the Planning Commission, will be allowed.

n. Signs in the central business district may have additional requirements as recommended by the Downtown Merchants Association and approved by Mayor and Commission of Commissioners.

2. Electrical Standards

a. Electrical service to on-premise, freestanding signs shall be concealed whenever possible.

b. Electrical signs shall be marked with input amperes at full load.

c. Each illuminated and/or electrical sign shall bear thereon a label or certification visible from the ground, from the Underwriter's Laboratories, Inc., or any other approved independent electrical inspection agency qualified to make such certification or have written approval from the local Electrical Inspector.

d. No artificial light, of whatever type or nature used in conjunction with or the lighting of any sign, shall be constructed as to direct or reflect any artificial light onto any structure or to constitute a hazard to the safe and efficient operation of vehicles upon a street or highway.

e. Flashing or rotating lights, flashing signs, flashing or moving lights on signs, and reflective pennants are prohibited, except that signs that exhibit time, temperature, date or other similar information and search lights permitted by the Building Inspector as an attention getting device are permitted.

f. In no case shall electrical wiring, extension cords, or any other means of power be laid on the ground or parking areas.

3. Maintenance Standards

a. Every sign, including, but not limited to those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of such sign.

b. The ground area around any freestanding sign shall be kept free and clean of weeds, trash and other debris.

**11-1104 - PROHIBITED SIGNS**

The following types of signs are prohibited in all zoning districts in Galloway.

A. Signs on public property, except for public signs in conjunction with city, state and federal government uses and temporary signs upon permission by the public authority having jurisdiction.

B. Signs erected at the intersection of any streets or alleys in such a manner as to obstruct free and clear vision; or in any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic signs, signal or device, or which makes use of the words "STOP, LOOK, DRIVE-IN", "GO SLOW", "CAUTION", or similar wording or other symbols as to interfere with, mislead or confuse traffic. No signs shall be allowed between a height of two and one-half (2.5) feet and ten (10) feet on the front property line in order to prevent any obstruction of vision.

C. Signs which blend with or can be confused with traffic signals.

D. Signs which contain reflective materials which present a hazard or danger to traffic or the general public.

E. Signs which are structurally unsound.

F. Signs which display thereon or advertises any obscene, indecent or immoral matter.

**11-1105 - TEMPORARY SIGNS**

No temporary sign shall be allowed except as set forth herein and which is affixed to a building, pole or other structure and located on the same property and allowed under the provisions of this Chapter. Temporary signs are allowed in all zoned districts as specified below. A sign permit is required for all temporary signs except for vehicle signs, construction signs, posters, garage sale signs, and non-profit organization event signs.

a. Street Banners - It shall be unlawful for any person to have placed across or upon any public street, alley or place a banner, electrical or floral festoon, without first obtaining a permit. Such banner or electrical or floral festoon shall be in conjunction with an official, civic, or philanthropic, festival, or parade and shall be allowed

for a period not to exceed thirty-five (35) days as determined by the Building Inspector. Street banners shall be removed within seven (7) days after the event being advertised has occurred.

- B. Off-Building Advertising Banners - Shall be allowed, after obtaining a permit, for a period not to exceed fourteen (14) days per calendar quarter. They are subject to the building setback requirements of the zone in which they are located. They may be used only in Commercial and Industrial zones and may not exceed twenty-four (24) square feet in total area. On-building banners that do not require a permit, however, total signage on any face of a building must not exceed 25% of the total surface area.
- C. Posters - Shall only be authorized in conjunction with an official, civic, or philanthropic event and shall be allowed only thirty-five (35) days prior to and forty-eight (48) hours after the event.
- D. Vehicular Signs - Any vehicle carrying or having a sign painted on it shall be considered a sign regulated under this chapter. Such signs shall be prohibited unless displayed on a vehicle in operable condition carrying all current valid licenses, tags or plates as required by all governmental authorities. This may include valid dealer licenses, tags or plates.
- E. Construction - Construction signs shall be allowed in all districts during the actual period of construction and shall be limited in size to sixty-four (64) square feet and a height of twelve (12) feet. The sign announcement shall be limited to the project name, sponsor or funding agent, owner, general contractor and subcontractors, architect or engineer.
- F. Signs not exceeding five (5) square feet in area noting garage sales provided it is an on-site sign. This sign shall be allowed to be erected no more than seven (7) days prior to and two (2) days after the event that it advertises.
- G. Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said sign conforms to the following regulations.
  - (1) Said signs may be erected no earlier than ninety (90) days prior to said election and shall be removed within three (3) days following said election.
  - (2) No sign shall be located within or over the public right-of-way or on utility poles.
  - (3) The candidate or the candidate's organization must obtain a general sign permit covering all of the candidate's signs in Gallaway. There will be no charge for this permit.
  - (4) Political signs in residential districts shall be limited to sixteen (16) square feet in area and shall be limited to thirty-two (32) square feet in all other districts.

### **11-1105 - EXEMPTIONS**

The following signs shall be allowed in all zoning districts of the City of Gallaway provided that the sign conforms to the regulations of this Chapter. A sign permit is not required to erect exempt signs described below.

- A. Signs not more than two (2) square feet which identify street numbers, owner names, occupant name, and professional names, as allowed herein.
- B. Official National, State or Municipal flags properly displayed.
- C. Signs, identifying merchandise, or manufacturer, offering sale if on a dispensing or vending machine, or on windows.
- D. Signs wholly within buildings or on windows.
- E. Public signs that are signs erected by, or on the order of a public officer in the performance of his public duty, such as safety signs, danger signs, legal notices and such temporary, emergency or non-advertising signs as may be approved by the Building Inspector.
- F. Historical markers as required by local, State, or Federal authorities.
- G. Signs of a primary decorative nature, clearly, incidental and customary and commonly associated with any national, local or religious holiday.
- H. No trespassing or no dumping signs.
- I. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed on bond or noncombustible material.

- J. Public signs, or signs specifically authorized for public purposes by any law, statute or chapter; which may be of any type, number, area, height above grade, location, illumination or animation, required by law, statute or chapter under which the signs are erected. Also exempted are signs on public property erected by order of the Mayor and Commission of Commissioners, which shall be allowed subject to all appropriate sight, distance, and safety considerations being met, as determined by the Mayor and Commission of Commissioners.
- K. Warning signs warning the public of the existence of danger, containing no advertising material, of a size as may be necessary to be removed upon the subsidence of danger.
- L. Private property directional signs such as "no parking", "exit", "parking", etc., not to exceed five (5) square feet.
- M. Non-electrical free standing business and non-electrical attached business signs will not require permits if they do not exceed thirty-two (32) square feet.

## **11-1107. ILLEGAL, NONCONFORMING, AND UNUSED SIGNS**

### **A. Illegal Signs**

- 1 Definition: An illegal sign is any sign erected or altered after the effective date of this Chapter not complying with the provisions thereof unless said provision was expressly waived or granted a variance.
- 2 Disposition: Any illegal sign shall be removed from the premises upon which it is located within thirty (30) days from the effective date of this Chapter or notice of violation and shall not remain on the premises or elsewhere in the City until a sign permit is issued.

### **B. Nonconforming Signs - Any sign that has been erected, constructed or placed in its location and that is being used as of the effective date of this Chapter, shall be conclusively presumed to have been so erected, constructed or placed and used in compliance with the codes and chapters of the City of Gallaway pertaining to signs that were in effect immediately prior to such date.**

- 1 Any sign that is non-conforming because it fails to comply with the provisions of this Chapter may not be repaired, restored or reconstructed, provided that such work alters structurally, extends, or enlarges, in whole or in part, unless such sign as so altered, extended or enlarged shall conform with the provisions of this Chapter and a proper permit is obtained.
- 2 No owner, user, or other person shall alter any non-conforming sign (including alterations in the colors, letters, words, numbers, objects or symbols appearing thereon, excluding message Commissions), unless such sign as so altered shall conform to the provisions of this chapter. The violation of any one or more of the following regulations shall constitute a forfeiture of the right to continue to use and maintain a non-conforming sign. Consequently, this sign will now be defined as an illegal sign.
  - a. A non-conforming sign shall not be replaced with another non-conforming sign.
  - b. A non-conforming sign shall not have any changes in the words, logo or symbols that are a part of a message unless the sign is a freestanding message Commission, non-portable.
  - c. A non-conforming sign shall not be structurally altered so as to prolong the life of the sign, to be increased in size or shape, or type, or design.
  - d. A non-conforming sign shall not be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50% of the value of the original structure.
  - e. A non-conforming sign shall not be re-established after the activity or name of the business or ownership shall be changed requiring a change in the sign name or advertisement itself.
- 3. All signs which are nonconforming because of: the use of flashing, blinking, intermittent or exposed lighting (except neon); signs which constitute a traffic hazard, block or restrict the visibility of motorists or pedestrians; otherwise constitute an immediate hazard to the general health, safety and welfare of the public of the City, shall be brought into conformity within ten (10) days of the effective date of this Chapter. If such signs are not removed within the aforementioned ten (10) day period, written notification of the obligation to remove such signs shall be furnished by the Building Inspector and delivered to the sign owner/user/property owner by certified mail and the owner/user/property owner shall thereafter be required to remove said sign from the premises within five (5) days of the receipt of notification from the Building Inspector. Failure to remove such signs within the time periods herein provided shall constitute a violation of this Ordinance.
- 4. Disposition: It shall be the duty of the sign owner/user and property owner to remove any nonconforming sign in accordance with the requirements of this Section.

5. A request for a variance or interpretation of this chapter, as it pertains to the non-conformity, and which is filed within thirty (30) days of the effective date of this chapter, shall stay further administrative actions pertaining to said sign until such time as the variance or request for interpretation is acted upon.

C. Unused (Abandoned) Signs

1. Definition: An unused or abandoned sign is a sign that meets any of the following criteria:
  - a. A sign that identifies an establishment or goods or services that are no longer provided on the premises where the sign is located.
  - b. A sign that identifies a time, event or purpose which has passed or no longer applies.
  - c. This also applies to sign structures with or without a sign.
2. Disposition:
  - a. Any sign which is defined under paragraph C.(1)(a) of this subsection, and which condition exists for a period of one month, and which sign is otherwise nonconforming, shall be removed by the owner/user/property owner within five (5) days of the end of the one month (thirty [30] day) period.
  - b. Any sign which is defined under subparagraph C.(1)(a) of this subsection which remains in such condition for a period of one month, and which sign is otherwise conforming shall have its copy vacated within thirty (30) days from when the stated circumstances commenced. If the copy remains vacant for a period of six (6) months or more from the date the stated circumstances commenced, the sign structure shall be removed by the owner/user/property owner. Removal shall be within five (5) days following the expiration of the aforementioned six (6) month period.
  - c. Any sign defined under subparagraph C. (1) (b) of this subsection shall be removed by the owner/user/property owner within three (3) days from the time the event or purpose has passed or no longer applies.
  - d. Removal:
    - (1) Any illegal, nonconforming or unused sign which is not removed from the premises by the owner/user/property owner within the time frames prescribed herein shall be considered a violation of the provisions of this Ordinance and shall be subject to the maximum penalties allowed by law. Each day such violation shall continue shall constitute a separate offense.
    - (2) Failure to Remove: A failure to remove any illegal, nonconforming or unused sign and subsequent failure by the Building Inspector to duly notify the owner/user/property owner of the provisions of this Section shall not be deemed to constitute a waiver of any violations of this Ordinance, nor shall such inaction be deemed to constitute a determination that any such sign is legal, in conformity with this Ordinance or to be given any special status. If, through administrative neglect or inaction, any owner/user/property owner is not notified of the requirements of this Ordinance within the time frames herein set forth, but is later so notified, said owner/user/property owner shall take action to either correct the illegality, nonconformity or nonuse or shall cause the sign to be removed within twenty (20) days of such notification.

## **11-1108. APPEALS TO THE COMMISSION OF ZONING APPEALS**

A. Right to Appeal

1. Except for instances relating to signs located or proposed to be located on public property, which is within the jurisdiction of the City Commission, any person who has been ordered by the Building Inspector for the removal of any sign, or any person whose application for a permit for a sign has been refused, may appeal to the Commission of Zoning Appeals by serving written notice to the Building Inspector. Such appeals to the Commission of Zoning Appeals shall be on forms provided by the Building Inspector and upon filing of a notice of appeal, the Building Inspector shall take no further action with regard to the sign involved until the final decision of the Commission of Zoning Appeals has been rendered, unless the Building Inspector finds by reason of condition, location or nature of the sign involved presents an immediate and serious danger to the public, in which case he shall proceed immediately as provided herein.
2. Variances. The Commission of Zoning Appeals may grant variances concerning the height and setback of signs, the period for removal of nonconforming signs, the maximum sign area, the maximum number of signs, the removal of prohibited signs, and such others as provided for herein only if the following determinations have been made:
  - a. The appeal falls within the jurisdiction of the Commission.
  - b. That all parties directly in interest have been notified of the proceedings.

- c. That the granting of the appeal would not have the effect of applying sign standards from a less restrictive zone.
- d. That the property cannot be reasonably used in conformity with the provisions of this Ordinance.
- e. That the difficulty complained of is unique to the property in question and is not common to all properties similarly situated.

#### **11-1109. - PERMITS**

In accordance with this Ordinance, no sign shall be erected, altered, or relocated without a building permit acquired subject to the following:

- A. The permit application shall contain the location of the sign structure, the name and address of the sign owner and sign erection, a drawing showing the design, location, materials and colors of the sign.
- B. Required electrical permits shall be obtained prior to submission for a building permit.
- C. Fees for permanent signs shall be in accordance with the normal rate schedule for the Standard Building Code as adopted with a minimum fee. Fees for temporary signs shall be the minimum permit fee.
- D. A building permit for a sign shall become null and void if the sign has not been completed within six (6) months of the date of the permit or the sign varies in any respect from the approved design and location.
- E. Normal sign maintenance to prolong the life of the sign shall not require a permit.
- F. Permits issued to non-profit organizations will not be charged a fee.