

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
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14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of eight (8) members; one (1) of these shall be the mayor or a person designated by the mayor; one (1) shall be a councilman selected by the city council; the other six (6) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the six (6) members appointed by the mayor shall be for three (3) years each. The six (6) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of two (2) members expires each year. The terms of the councilman selected by the city council shall run concurrently with their term of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his pleasure. (1985 Code, § 11-101, as replaced by Ord. #05-07, Sept. 2005, and Ord. #12-09, Nov. 2012)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, title 13. (1985 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1985 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Lewisburg shall be governed by the official zoning ordinance #15-03 adopted February 2015, titled "Zoning Ordinance, Lewisburg, Tennessee," and any amendments thereto.¹ (1985 Code, § 11-201, as replaced by Ord. #15-03, Feb. 2015)

¹The zoning ordinance and any amendments thereto, are published as separate documents and are of record in the office of the city codes officer.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE¹

SECTION

- 14-301. Statutory authorization, findings of fact, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

14-301. Statutory authorization, findings of fact, and objectives.

(1) Statutory authorization. The General Assembly of the State of Tennessee has in Private Act 1961, Chapter 36, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Lewisburg, Tennessee Mayor and its City Council does ordain the following.

(2) Findings of fact. (a) The Lewisburg Mayor and its City Council wish to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of Lewisburg 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.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(3) 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:

¹Ordinance #93-2, and all amendments were previously adopted by reference in this municipal code. The Flood Damage Prevention Ordinance is now fully set out in title 14 chapter 3.

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

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) **Objectives.** The objectives of this ordinance are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (as added by Ord. #07-06, Aug. 2007)

14-302. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

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

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

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

(3) "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 fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load bearing wall shall be considered new construction (see "new construction").

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on 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.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) 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.

(8) "Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

(10) "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.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

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

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

(14) "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.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

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

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

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

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction or 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).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "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 (1) percent or greater chance of occurrence in any given year.

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

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

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

(26) "Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

(28) "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.

(29) "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.

(30) "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.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as

a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "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.

(33) "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.

(34) "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.

(35) "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.

(36) "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.

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

(38) "Highest adjacent grade" mean the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) 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;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "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.

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

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

(43) "Manufacture home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

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

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

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the

effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "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 after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

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

(51) "100-year flood" see "base flood."

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

(53) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "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.

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

(56) "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.

(57) "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 one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include

initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" the Tennessee Department of Economic and Community Development, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "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.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

(61) "Substantial repairs" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

(65) "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 floodplains of riverine areas. (as added by Ord. #07-06, Aug. 2007)

14-303. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Lewisburg, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Lewisburg, Tennessee, Federal Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47117C0135D, 47117C0154D, 47117C0155D, 47117C0156D, 47117C0157D, 47117C0158D, 47117C0159D, 47117C0165D, 47117C0166D, 47117C0167D, 47117C0178D, and 47117C0186D, dated September 28, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

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

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

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Lewisburg, 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.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lewisburg, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(9) Repeal. The existing ordinance 93-2, titled "The Lewisburg Municipal Flood Damage Prevention Ordinance," is hereby repealed in its entirety and replaced with this new ordinance of the same title. (as added by Ord. #07-06, Aug. 2007)

14-304. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

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

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are

available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-304(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator 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 relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

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

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) 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.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-304(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-304(2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-304(2).

(h) 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 administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in

§ 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #07-06, Aug. 2007)

14-305. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) 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;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) 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;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and,

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance,

shall be undertaken only if said non-conformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-305(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

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 design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood

elevation, or required height above the highest adjacent grade, shall be 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.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one (1) foot above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) 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 elevated living area (stairway or elevator); and

(iii) 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 § 14-305(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers

(or other foundation elements) at least three (3) feet in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-305(2)(d) of this chapter.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

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

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, 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:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) 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.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of

special flood hazard established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-305.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) 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.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-305. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply.

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-305(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones).

Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-305(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls

substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304 and 14-305(1) shall apply.

(8) Standards for unmapped streams. Located within Lewisburg, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, 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 locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 14-304. (as added by Ord. #07-06, Aug. 2007)

14-306. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established to hear and decide appeals and requests for variances from the requirements of this ordinance. The membership of the

Lewisburg Board of Zoning Appeals shall serve as the board of floodplain review.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the city council.

(c) Appeals; how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

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

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Lewisburg Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) 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.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all

relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) 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;

(10) 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.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result:

(2) Conditions for variances. (a) 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.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) 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.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #07-06, Aug. 2007)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Lewisburg, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (as added by Ord. #07-06, Aug. 2007)

CHAPTER 4

**DESIGN STANDARDS FOR THE DOWNTOWN
AREA OF LEWISBURG**

SECTION

- 14-401. Definition.
- 14-402. Application.
- 14-403. Design standards.
- 14-404. Demolition or razing existing structures.
- 14-405. Building permit.
- 14-406. Enforcement.
- 14-407. Public nuisance.
- 14-408. Enforcement.

14-401. Definition. The downtown area includes the city's public square and one block therefrom fronting on North and South First Avenue, North and South Second Avenue, West Church Street, West Commerce Street and to Rock Creek on East Church Street and East Commerce Street. (Ord. #98-02, July 1998)

14-402. Application. This chapter shall be applied as follows:

(1) **Existing buildings.** Buildings existing upon the effective date of this chapter shall be allowed to continue with their existing design, except when the exterior of the building is to be modified, changed, improved, or altered in any manner, such modification, changes, improvements or alterations shall comply with the design standards of this chapter shall be complied with.

(2) **New buildings.** New buildings constructed after the effective date of this chapter shall comply with the design standards of this chapter. (Ord. #98-02, July 1998)

14-403. Design standards. The architect and style of buildings shall have the following characteristics:

(1) The height of a new building or its facade shall be equal to or greater than the adjacent building or nearest building.

(2) Building facade shall be finished in materials traditionally used for main street storefronts to maintain the character of the public square, such as brick, stone, glass, wood or quality manmade materials that look like brick or stone and is compatible with adjacent buildings. No metal, vinyl, plastic or similar material shall be used for the facade of a building.

(3) Distinctive features, finishes and construction techniques, or examples of craftsmanship that characterize the architectural character of a building shall be preserved whenever reasonably possible.

(4) Deteriorated features shall be repaired rather than replaced whenever reasonably possible. When the severity or deterioration requires replacement or a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities, and where reasonably possible, materials.

(5) New additions or exterior alterations shall be compatible in material, color, scale and architectural features with the existing building.

(6) A new building shall not in itself, or by reason of its location on the site, materially impair the architectural value of buildings on adjacent sites or in the immediate vicinity of the public square.

(7) Signs shall meet all existing codes and requirements, and in addition, shall not cover architectural features and spaces that characterize the building.

(8) All ground mounted mechanical equipment, including heating and air conditioning units and trash receptacle areas, shall be screened from adjacent properties and the streets adjacent to the building by the use of a fence, gate or well, or shall be enclosed within a building. Acceptable trash containers may be placed on the sidewalk for trash pick-up by the city, but such trash containers shall be promptly returned to the screened area or inside the building the day after trash pick-up.

(9) New construction or modification, repair, change, improvement or alteration of the exterior, excluding the roof of an existing building, requires prior approval of the Lewisburg Planning Commission. (Ord. #98-02, July 1998)

14-404. Demolition or razing existing structures. Prior to demolishing or razing a building or structure within the downtown area, the owner of the property shall submit to the planning commission for approval, details of how and when the building or structure is to be demolished or razed, the use to be made of the property after the building or structure is demolished or razed; and, if a new building or structure is to be placed on the property, its construction shall be in conformity with this chapter. However, if the owner does not plan to construct a new building or structure, such shall be made known to the planning commission and the property shall be filled in with rock, stone or other solid material, covered with not less than eight (8) inches of topsoil and seeded or sodded with a perennial grass. The owner shall mow and trim the grass whenever it exceeds the height of 10 inches and shall maintain the property free of debris and weeds. (Ord. #98-02, July 1998, modified)

14-405. Building permit. A building permit must be issued prior to commencement of work to modify, change, improve or alter the exterior of a building. (Ord. #98-02, July 1998)

14-406. Enforcement. In the event any building subject to this chapter is proposed to be constructed, reconstructed, modified, changed, improved,

altered or repaired in violation of this chapter, the building inspector, in addition to any other remedies, may:

- (1) Institute a civil action for injunctive relief to stop, prevent or abate a violation of this chapter;
- (2) Issue a stop-work order to prevent a continuing violation of this chapter. (Ord. #98-02, July 1998)

14-407. Public nuisance. Work which proceeds in violation of this chapter in contravention of a stop-work order, or in disregard of a court ordered injunction, shall be a public nuisance. (Ord. #98-02, July 1998)

14-408. Enforcement. In addition to the remedies hereinbefore provided, the violation of this chapter is punishable by a penalty not to exceed \$500.00 and each day of continued violation is a separate violation subject to a penalty of not more than \$500.00, and such penalty is in addition to any court-ordered injunctive or building inspector stop-work order. (Ord. #98-02, July 1998)

CHAPTER 5

SIGN ORDINANCE¹

SECTION

- 14-501. Title and definitions.
- 14-502. Administration, enforcement and fees.
- 14-503. Regulations of signs.
- 14-504. Additional regulations for signs permitted in residential districts.
- 14-505. Additional regulations for signs permitted in commercial districts.
- 14-506. Regulation of billboards.
- 14-507. Non-conforming sign provisions.
- 14-508. Termination of non-conforming structures.
- 14-509. Removal of non-conforming sign.
- 14-510. Protections of First Amendment Rights.
- 14-511. Permits and fees.

14-501. Title and definitions. This chapter shall be known as the "Sign Ordinance" of the City of Lewisburg, and cited as such. For the purpose of this chapter, the following terms, phrases and words shall have the following meanings:

(1) "Billboard sign." An advertising sign supported by uprights and/or braces upon which the message may be manually changed and directs attention to a business, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

(2) "City." When used herein shall mean the City of Lewisburg, Marshall County, Tennessee.

(3) "Convenience signs." A sign displayed only for the direction, safety, and convenience of the public, including signs identifying rest rooms, parking area entrances and exits, gas station self-service or full-service pump islands, freight entrances and exit, and other facilities which may require directional signage. These may include logos and/or company names but nothing else other than the required directional information and may include no dumping, no parking, no trespassing and similar signs.

(4) "Display surface." The display surface shall mean and include the entire area of a single continuous perimeter enclosing the extreme limits of wording, representation, emblem or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The

¹This chapter was originally added as the Sign Code by Ord. #99-07, Oct. 1999. It was repealed by Ord. #01-11, Jan. 2002. The present chapter "Sign Ordinance" was added by Ord. #01-12, Jan. 2002.

supports, uprights, or decorative base of a sign shall not be included in determining the display surface area of a sign. The display surface is applicable to each side of a sign if more than one (1) side.

(5) "Flashing sign." A sign, the illumination of which is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash and blink.

(6) "Government sign." A sign erected and maintained by or for a government entity for the purpose of any government function, or a sign required by law, ordinance, or government regulation.

(7) "Ground sign." A sign (excluding billboards) supported by uprights or braces of any kind upon the ground and permanently affixed thereto.

(8) "Height of sign." The vertical distance measured from the surrounding grade to the highest point of the sign.

(9) "Identification sign." A sign located at the entrance utilized to designate a residential subdivision, commercial, non commercial, industrial or multifamily development.

(10) "Inflatable sign." A temporary inflated sign, which may be stationary or mobile, that is used to attract attention, which may or may not bear a message.

(11) "Lot." A tract of land whose existence, location, boundaries and dimensions are identified as parcel by the Assessor of Property of Marshall County, Tennessee. If a building sits on two (2) or more lots, it is considered one (1) lot of record for purposes of this chapter.

(12) "On-site directional sign." A sign not exceeding four and one-half (4 ½) square feet in display surface directing traffic movement onto a premises or within a premises.

(13) "Non-conforming sign." A sign existing at the effective date of the adoption of this chapter that does not conform with the provisions of this chapter.

(14) "On-site sign." An on-site sign is a sign which directs attention to a business, profession, service or entertainment which is primarily conducted, sold or offered upon the same lot.

(15) "Permanent sign." A sign which is stationary, not capable of being easily moved, and attached to the ground in concrete.

(16) "Portable sign." A portable sign shall include any advertising sign or device, trailer, sign, or any variation thereof, easily moveable, not permanently attached to the ground or a building.

(17) "Projecting sign." An "outdoor advertising display" sign which is affixed to any building, wall or structure and extends beyond the building wall or structure by more than six (6) inches.

(18) "Right-of-way." The boundary line or margin of the area adjacent to public streets, roads, or highways.

(19) "Setback." A line located parallel to and a specified distance from the right-of-way line, such distance being specified in the applicable section of the zoning ordinance and behind which line a sign allowed under this chapter.

(20) "Sign." A device or thing, including the frame, letter, figure, character, make, plain, point, marquee, canopy, awning, design, picture, poster, stroke, banner, streamer, pennant, bunting, inflatable sign, strike line, flag, logotype, trademark, reading matter, illuminating device, or any device used for illumination of such which is used or intended to be used to attract attention or convey information when the same is placed outdoors in the view of the general public or for the purpose of attracting the general public to any place, or any business, or to any public performance, or to any article, machine or merchandise of any nature whatsoever and which is displayed in any manner whatsoever.

(21) "Sign area." The total number of signs and/or display surfaces on any one (1) premises or lot or commercial industrial developments and complexes.

(22) "Signable area." The total number of signs and/or display surface areas permitted in this chapter on any one (1) lot, commercial, and/or industrial developments and complexes.

(23) "Size." Refers to display surface.

(24) "Stand alone sign." A sign that normally is fifteen (15) square feet or less per side that advertises a service or product. These signs are normally made of metal with a metal frame. It sits on the ground or pavement on wide legs that keep it from tipping over. This is a special type of portable sign.

(25) "Temporary sign." Any sign, which by reason of construction or purpose, is to be used for a limited period of time, including, but not limited to, a sign which is to be displayed and removed within a period of time as specified in this chapter. A sign is temporary if it has visible legs or wheels and/or if it has a visible cord connecting to a power source.

(26) "Temporary window sign." A sign in contact with or within three (3) feet of the window on the inside, and visible from the outside, that is not painted onto the window or stuck to the window in such a manner as to require scraping or the use of solvents or similar substances to remove it from the window pane.

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

(28) "Wall sign." An outdoor advertising display sign affixed to the wall of any building, projecting not more than twelve (12) inches from the building.

(29) "Yard sales." All general sales, open to the public, conducted from or on any premises for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis.

(30) "Zoning ordinance." The zoning ordinance of the City of Lewisburg. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-502. Administration, enforcement and fees. (1) It shall be unlawful for any person, corporation or association to erect, or keep within the city any sign as defined without first obtaining a sign permit from the city's codes enforcement officer and paying the permit fee required by this chapter except for:

(a) Government signs. Signs erected by, or on the order of, a public officer in the performance of his or her public duty, such as safety signs, danger signs and traffic signs.

(b) Historical markers. Historical markers as recognized by local, state, or federal authorities.

(c) Governmental flags. National, state, or local government flags.

(d) Banners/flags. Banners or flags attached to utility poles by the city.

(2) The city's codes enforcement officer is hereby designated as the sign administrator for this chapter. The administrator is responsible for:

(a) Issuance of sign permits and the acceptance or denial of same

(b) Informing the public of matters related to signs and helping interested parties comply with regulations of this chapter

(c) Maintenance of records on signs

(d) Periodic checks for violations of this chapter

(3) The sign administrator shall have the authority to make administrative decisions concerning the interpretation of this chapter, and any disagreement of the sign administrator's decision shall be resolved by the board of zoning appeals.

(4) When the sign administrator finds violations of this chapter he shall first verbally inform the responsible party, then if corrective action is not taken he shall inform the party by certified return mail that violations must be corrected in ten (10) days.

(5) Any person found guilty of violating the terms of this chapter shall be subject to a penalty to be determined by the city court for each offense. Each day such violations continue shall constitute a separate offense. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-503. Regulations of signs. (1) No sign shall ever be attached to a utility pole. This violates state laws, local ordinances, and is a possible danger to utility workers. No sign may be placed on any public right-of-way or drainage easement, unless otherwise exempted by a government entity.

(2) No sign shall be erected or placed at any location where it interferes with or obstructs the view of a vehicular or pedestrian traffic, has the words "stop," "caution," "warning," or any other words which would confuse the reader with traffic control signs.

(3) No sign shall have noisy mechanical devices or moving or glaring illumination, except for that movement allowed on message center or scroll type signs, or that of a theater marquee.

(4) Temporary signs may be used for a period of thirty (30) days after application has been approved by the sign administrator and may be used for a maximum of sixty (60) days in any calendar year. A temporary sign may be considered permanent if its legs are set in concrete and hidden by a base made of wooden beams, brick or stone and mortar, or other similar construction, or if approved by the sign administrator, or if its legs have been removed and the sign is suspended between vertical wooden or metal beams. The sign administrator can show a sign owner several options which can assist the owner in making a temporary sign permanent if that is the desire of the owner. Schools, churches, service clubs, fire departments and hospitals are exempted.

(5) All signs whether permanent or temporary shall be maintained in a safe, neat and orderly manner. This includes, but is not limited to, structural maintenance, painted surfaces, and manicuring of unsightly grass and weeds around the signs.

(6) No sign shall be painted on or attached to any tree, rock, ledge, or any other natural feature.

(7) A charitable or not-for-profit organization may after receiving permission from the city's police department place a sign in the proper receptacles on the southeast or northwest corners of the public square as long as it is removed within twelve (12) hours after the event advertised.

(8) No permit is required for a temporary political sign. However, all political signs shall be removed within ten (10) days after the advertised election. No political signs shall be placed in or on any public park, public building, public grounds, traffic control or directional signs, or public rights-of-way. Also, no person shall place any such sign on the property of another without first having the permission of said property owner.

(9) Off-site real estate directional signs shall be outside rights-of-way and comply with the following provisions:

(a) Maximum Display Surface Area 16 Feet

(b) Maximum Height 6 Feet

(c) Such signs shall be removed within forty-eight (48) hours from the date of the auction or sale. (Ord. #99-07, Oct. 1999, as repealed by Ord. #01-11, Jan. 2002, added by Ord. #01-12, Jan. 2002, and amended by Ord. #10-18, Dec. 2010)

14-504. Additional regulations for signs permitted in residential districts. (1) Signs upon premises occupied by schools, service clubs, churches, hospitals and other permitted uses other than dwellings are permitted:

(a) The area on one side of the sign shall not exceed 40 square feet.

(b) Not more than one sign per vehicle entrance is permitted.

(c) The sign may be either attached to a building or a ground sign.

(2) On premises real estate signs are permitted provided the area of any such sign shall not exceed 32 square feet and pertain to the sale, lease, or rental of property on which the sign is displayed. Sign shall not be illuminated by any means. Real estate signs shall be removed within 48 hours of the sale.

(3) A subdivision consisting of twenty (20) or more lots and a multi-family development consisting of ten (10) or more dwelling units may display one permanent sign identifying the venture at each major vehicular entrance.

(a) Such sign may be displayed on entrance wall, fence or other structure used to delineate the major entrance or may otherwise be ground mounted.

(b) Such sign may not be attached to any building and not be more than 32 square feet in area on one side.

(4) Contractor signs may be temporary signs not exceeding 32 square feet in display surface area indicating the name of the contractor, engineers, developers and/or architects of a construction project.

(a) Temporary in this regard shall mean that period of time commencing with the construction and terminating when the construction project is completed.

(b) This subsection shall not apply to signs required by governmental agencies during construction.

(5) Yard sale signs. (a) Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale is being conducted.

(b) Directional signs. Signs of not more than two (2) square feet each are permitted, and oral or written permission to erect such signs is received from the property owners on whose property such signs are to be placed. Signs shall not be attached to utility poles.

(c) Removal of signs. Signs shall be removed within twenty-four hours from the end of the yard sale. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-505. Additional regulations for signs permitted in commercial districts. (1) On-site signs in commercial districts.

(a) Attached signs are permitted provided said signs:

(i) Are not more than 100 square feet in total display surface area, excluding display surface on an awning or marquee,

or twenty (20) percent of the area of the building face upon which it is erected whichever is more restrictive.

(ii) Projection type signs shall be a minimum of ten (10) feet above any private sidewalk or private street and shall project not more than three (3) feet from a line perpendicular to the face of the building.

(iii) Convenience signs shall be exempt from the 100 square feet total display surface.

(b) Ground signs are permitted provided said signs:

(i) Are not larger than 100 square feet in display surface area;

(ii) Are set back at least five (5) feet from all rights-of-way, property lines and sidewalks;

(iii) Are spaced so that they are not closer than five (5) feet to one another;

(iv) And are not higher than 32 feet.

(c) Stand alone signs are permitted provided said signs:

(i) Are set back at least five (5) feet from all rights-of-way; property lines and sidewalks.

(ii) Are spaced so that they are not closer than five (5) feet to one another.

(iii) A maximum of six (6) are allowed per business.

(d) Real Estate signs as allowed in residential areas § 14-504(2).

(e) Contractors signs are allowed in residential areas except that the size allowed may be 64 square feet.

(f) The total display surface area of all permanent signs for any one business, excluding public convenience signs, shall not exceed 150 square feet.

(g) A multiple tenant business sign shall be permitted provided:

(i) The sign is no larger than 150 square feet of display surface area for identification of the complex.

(ii) Each business may have an additional sign not exceeding 32 square feet.

(h) Theater signs not exceeding 150 square feet in aggregate shall be in addition to all other signs authorized by this section and such signs may be on a marquee. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-506. Regulation of billboards. One billboard may be erected on any lot zoned C-2 Intermediate Business District, I-1 Light Industrial District, I-2 Industrial Park District or FW Floodway District. Such sign shall have a maximum of four hundred (400) square feet of display surface area and be located no closer than fifty (50) feet to a street right-of-way and is no closer than six hundred (600) feet to any other billboard. The billboard must be located on

a U.S. or State of Tennessee designated highway and cannot be within two hundred (200) feet of an intersection. The maximum height shall be fifty (50) feet from ground level or street level, whichever is lower. No billboard shall be located within five (500) hundred feet of the property line of any designated historic district, landmark, or public park. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-507. Non conforming sign provision. Any non-conforming sign permanently fixed on property may be continued in operation and maintained after the effective date of this chapter, but shall not be:

- (1) Changed to or replaced with another non-conforming sign.
- (2) Structurally altered so as to extend its useful life.
- (3) Expanded.
- (4) Relocated.
- (5) Reestablished after damage or destruction of more than fifty (50) percent of the value at the time of such damage or destruction.
- (6) Modified in any way that would increase the degree of non-conformity of such sign.

Nothing in the chapter shall prevent the strengthening or restoring to a safe condition any portion of a sign or structure deemed unsafe. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-508. Termination of non conforming sign structures. (1) Fifty (50) percent damage. Any permanent non conforming sign or sign structure which is partially destroyed or damaged by fire, accident, or natural cause beyond fifty (50) percent of its original value shall thereafter be removed or reconstructed in conformance to the regulations of this chapter.

(2) Conformance. Any permanent non conforming sign or sign structure which is improved and altered to comply with provisions of this chapter shall thereafter be considered as conforming.

(3) Annexed areas. Non conforming signs located in areas annexed into the City of Lewisburg shall be subject to the same provisions as non conforming signs in existence when this chapter was initially passed. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-509. Removal of non-conforming sign. (1) Signs which do not comply with this chapter and are not permanently fixed on property shall be brought into compliance with these regulations within fourteen (14) days after the effective date of this chapter.

(2) Signs of this type that exist in a non conforming status after the time specified shall be confiscated and disposed by the city and charged to the owner. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-510. Protections of First Amendment Rights. Any sign, display, or device allowed under these regulations may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this chapter. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)

14-511. Permits and fees. (1) Except for not for profit or charitable signs, no person shall establish, erect, change, alter or modify a sign without obtaining a sign permit from the City of Lewisburg.

(2) The sign permit fee shall be twenty five (25.00) dollars per sign. (Ord. #99-07, Oct. 1999, repealed by Ord. #01-11, Jan. 2002, and added by Ord. #01-12, Jan. 2002)