

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION

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7.010. Administration of the ordinance. Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

7.020. The enforcement officer. The provisions of the ordinance shall be administered and enforced by the City Building Inspector. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all building and zoning permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments thereto.

- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to ensure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

7.030. Building permits. All necessary federal and state permits must be obtained prior to any building permit being granted.

A. Application

Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose.

B. Fee:

The Lewisburg City Council shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the Office of the Building Inspector. Only the City Council may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

C. Issuance of Permit:

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed a waiving of any provisions of this ordinance.

D. Construction Progress:

Any Building Permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance or if the work authorized by the permit is suspended or discontinued for a period of one (1) year.

7.040. Temporary use permits. It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the City Building Inspector, as provided for in ARTICLE IV, SECTION 4.030 of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A schedule of fees shall be established by the Lewisburg City Council. Such schedule shall be posted in the office of the Building Inspector and City Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

7.050. Certificate of Occupancy. No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such use, land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy of use, it shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with provisions of this ordinance, or, if such certificate is refused, to state the refusal in writing with the cause of such refusal.

7.060. Procedure for authorizing special exceptions. The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Sections 13-7-206, of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application:

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended uses of the site, the names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Board may require.

B. General Requirements. A conditional use permit (a special exception) shall be granted provided the Board 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 provision of "Special Exceptions" as set forth in this ordinance.
4. Conforms to all applicable provisions of this ordinance for the district in which it is to be located as well as the provisions cited in SECTION 7.060 and 7.061 and is necessary for public convenience in the location planned.

C. Criteria for Review:

Prior to the issuance of a special exception, the Board shall certify (compliance with the specific rules governing individual special exceptions (SECTION 7.061)), and that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the Items in 1, and 2, above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions, and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.
8. General compatibility with adjacent properties and other properties in the district.
9. The proposed building or use will not result in the destruction, loss, or damage of any feature determined by the Board of Zoning Appeals to be of significant natural, scenic, or historic importance.

D. Restrictions:

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

E. Validity of Plans:

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

F. Time Limit:

All applications reviewed by the Board shall be decided within a reasonable time of the date of application.

7.061 Conditional Use Permits.

In addition to the requirements of the applicable district and the general requirements set forth above in SECTION 7.060, C, a conditional use permit shall be granted for the following activities specified herein, only when the following standards established are met as part of the condition for issuing the permit in the applicable zone districts.

7.061.1 Special Conditions for Religious Facilities

- A. No such facility shall be permitted on a lot unless it contains twice the lot area requirements of the district.
- B. The location, size, and design of such facilities shall be situated so that the proposed facility shall be compatible with the development within the surrounding area thus reducing the impact upon such area.
- C. Such facilities shall be located only on major or collector streets as shown on the official Major Thoroughfare Plan.
- D. All bulk regulations of the district shall be met.
- E. The off-street parking requirements of this ordinance in ARTICLE IV, SECTION 4.010, shall apply.

7.061.2 Special Conditions for Community Assembly

- A. No such activity shall be permitted on a lot unless it contains twice the lot area requirements of the zone district, except art galleries, libraries, or museums in which the primary activity is to be carried out indoors.
- B. All bulk regulations of the zone district shall apply.
- C. The off-street parking and loading requirements of this ordinance shall apply.
- D. Fencing, screening, landscaping shall be provided as appropriate to protect the surrounding area.
- E. 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 the properties within the surrounding area.

7.061.3 Special Conditions for Government Services

- A. All bulk regulations of the zone district shall apply.
- B. The off-street parking requirements shall be as follows:

Minimum of one space for each vehicle belonging to any agency or department, as well as one (1) space for each two (2) employees, plus additional spaces for the public, as determined to be necessary. The loading requirements in ARTICLE IV, SECTION 4.020, shall be met.
- C. The location of such facility shall be determined such that the most efficient service to the community is provided.

- D. The location of such facility shall not materially increase traffic on surrounding streets.
- E. The location of such facility shall not have an adverse effect upon surrounding properties. Fencing, screening, and landscaping may be required as appropriate to protect the surrounding residential area.

7.061.4 Special Conditions for Health Care Facilities. For purpose of this ordinance, day care facilities are classified into two types as defined below:

Day Care Center (Children) - includes day care for more than eight (8) preteenage children in any kind of building.

Day Care Home (Children) - includes day care in an occupied residence of not more than eight (8) children including children living in the home.

A. Day Care Center (Children)

1. No such facility shall be permitted on a lot unless it contains a minimum of 10,000 square feet, or twice the lot area requirements of the district whichever is greater.
2. All bulk and setback regulations of the district shall be met.
3. One accessory off-street parking space for each five children accommodated in this childcare facility shall be provided.
4. Special passenger loading and unloading facilities shall be provided on the same lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up movements by vehicle to enter or exit the lot.
5. All regulations of the State of Tennessee that pertain to the use shall be met.
6. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.
7. Screening and landscaping shall be provided as appropriate to protect the surrounding area. Fenced-outdoor play area shall be provided of at least 200 square feet per child or 2,000 square feet whichever is greater.

B. Day Care Home (Children)

1. The required lot size, yard, and bulk regulations of the district shall apply. No variances shall be permitted for lots on which such use is to be located.
2. All public utilities and sanitary sewers shall be available and connected to the site unless the site is over one (1) acre in size and sewer is not available. The Fire Department shall approve the facility for safety.
3. All requirements of the State of Tennessee that pertain to the use shall be met.
4. An outdoor play area of at least 200 square feet per child in size shall be available and shall be fenced.
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.
7. Site Plan shall be submitted in conjunction with the application for a conditional use permit.

C. Special Conditions for Other Uses in this Category. Associations for Physically or Mentally Handicapped Persons, Convalescent Homes, Hospitals, Medical Clinics, Nursing Homes, Rehabilitation Centers, Retirement or Rest Homes.

1. No such facility shall be permitted on a lot unless it contains a minimum of ten thousand (10,000) square feet, or twice the lot area requirements of the zone district whichever is greater.
2. All bulk and setback regulations of the district shall be met except for hospitals where the minimum side and rear yards shall be 50 feet for a one- or two-story building, increased by five (5) feet for each story above two (2).
3. The requirements of the accessory off-street parking regulations of this ordinance in ARTICLE IV, SECTION 4.010, shall apply.
4. All regulations of the State of Tennessee shall be met.
5. All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Water and Sewer.

D. Cemeteries and Mausoleums Subject to the Following Additional Standards:

1. Cemeteries shall be located on site of at least ten (10) acres.
2. A mausoleum which is not located in a cemetery shall be located on a site of at least 2 acres.
3. All structures located in a cemetery of six (6) feet in height or over including, but not limited to mausoleums, monuments and buildings, and all mausoleums not located in a cemetery and regardless of height shall be set back at least one hundred (100) feet from each lot line and street right-of-way.
4. All graves or burial lots shall be set back at least thirty (30) feet from each lot line and street right-of-way.
5. Screening located along the lot lines of the site of the cemetery or mausoleum shall be provided to block such cemetery or mausoleum from view from any other property.
6. A cemetery site shall not obstruct the development of any major or collector streets proposed in the Lewisburg Transportation Study portion of the General Plan.

7.061.5 Special Conditions for Group Assembly Activities

- A. 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.
- B. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
- C. The off-street parking requirements shall be based upon a recommendation from the Planning Commission.
- D. When an application for a group assembly permit includes amusement parks, sports arenas, fairgrounds, racetracks, and similar recreational pursuits, the following requirements shall be observed.
 1. The minimum size site shall be five (5) acres;
 2. The minimum setback of all structures from all public roads shall be one hundred (100) feet;
 3. Such facility shall be situated so that no residential use is located closer than five hundred (500) feet from building entrance of the principal use at the time of approval;

4. Access to such facility shall be by a paved public road and such road shall be either an arterial or a collector street. Traffic shall not be directed through residential streets;
 5. Off-street parking shall be provided at a minimum of one (1) space for each four (4) patrons or seats. For those facilities which are not utilized on a regular and frequent basis, parking may be provided on adjacent parcels of land, provided further that any parcel so used is located no more than five hundred (500) feet from the lot boundary;
 6. Any lighting provided at such facilities shall be designed so that no direct light falls on adjacent residential property;
 7. Accessory uses may be permitted in conjunction with the principal use of the property provided that such uses are physically designed as a part of or within the principal structure. Such uses may include food sales, beverage sales, gift or souvenir shops, and similar activities;
 8. Accessory structures may be permitted which are incidental and subordinate to the principal structure. Such structures may not be located within any required setback or buffer area.
- E. When an application for a Group Assembly or Transient Habitation permit includes a private campground, the following standards shall be met:
1. Such campground shall have on-site management;
 2. The campground may include convenience commercial establishments such as camp stores, laundry facilities, and personal services; provided that such convenience establishments are subordinate to the recreational character of the campground; are located, designed, and intended to serve exclusively the patrons staying in the campground; and such establishments and their parking areas shall not occupy more than ten (10) percent of the area of the park or one (1) acre, whichever is smaller;
 3. Such campground shall meet the following standards:
 - (a) Minimum size - 10 acres
 - (b) Maximum density - 10 campsites per gross acre
 - (c) Sanitary facilities, including flush toilets and showers - within 300 feet walking distance of each campsite
 - (d) Potable water supply - one spigot for each four (4) campsites

- (e) Trash receptacle - one for each two (2) campsites
- (f) Parking - one (1) space per campsite
- (g) Picnic table – one (1) per campsite
- (h) Fireplace or grill – one (1) per campsite
- (i) Administration or safety building - open at all times wherein a portable fire extinguisher in operable condition and first aid kit is available, and a telephone is available for public use.

4. Such campground shall meet the following design requirements:

- (a) A vegetation screen or ornamental fence which will substantially screen the campsites from view of public rights-of-way and neighboring properties shall be provided around or near the perimeter or that part of the campground containing campsites. Such vegetation or fence shall be maintained in good condition at all times.
- (b) Each campground shall reserve at least twenty-five (25) percent of its total area as natural open space excluding perimeter screening. Such open space may include recreation and water areas, but may not include utility areas, administration buildings, commercial areas or similar activities.
- (c) Each campsite shall have a minimum setback of twenty-five (25) feet from any exterior boundary line.
- (d) Each campsite and all other buildings shall have a minimum setback from any public road of fifty (50) feet.
- (e) Each separate campsite shall contain a minimum of 3,200 square feet. (A campsite shall be considered to consist of trailer or tent space, parking space, picnic table, fireplace, and one-half (1/2) the roadway providing access).
- (f) Each campsite shall be directly accessible by an interior road.
- (g) All interior roads shall be a minimum of ten (10) feet wide for one way traffic and eighteen (18) feet wide for two-way traffic.

(h) All interior roads shall meet the following curve requirements:

Minimum radius for a 90 degrees turn - 40 feet

Minimum radius for a 60 degrees turn - 50 feet

Minimum radius for a 45 degrees turn - 68 feet

(i) No camping vehicle or camping equipment shall be used for human habitation for a period exceeding thirty (30) consecutive days.

(j) Each campground shall provide a trailer dump station for the disposal of holding tank sewage.

7.061.6 Special Conditions for Feedlots and Stockyards

A. The location of such an activity shall be in an area sparsely developed during the length of time the use as a stockyard or feedlot is anticipated.

B. Any permit issued hereunder shall be based on a Site Plan or other documents submitted with an application which shall provide for the following:

1. Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contours intervals shall be at two (2) foot intervals.

2. Location of the area in which the proposed keeping of animals is to be conducted.

3. Location of all proposed buildings, animal pens, roadways and other facilities proposed on the site.

4. Proposed method of drainage of the animal pens.

5. Proposed fencing of the site.

6. Insect, rodent, and odor control measures shall be provided to the satisfaction of the Board of Appeals.

C. The owner shall establish to the satisfaction of the board that the operation of such facility shall not have an adverse effect on the properties in the surrounding area.

D. In any instance where sales of any type are to be conducted at the site, the board shall assure that adequate parking is available.

7.061.7 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 which shall provide for the following:
 - 1. Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contours 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 (ARTICLE IV, SECTION 4.070).
 - 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. Over-burden shall be retained on a suitable portion of the site of the sand or gravel or other extraction operations and shall be used for backfilling. All fill material shall be non-toxic, non-flammable, and non-combustible solids. All areas that are backfilled shall be left so that adequate drainage is provided.
 - 9. A comprehensive traffic impact study of both volume and vehicle weight impacts as they relate to the existing and proposed street system.
- C. Approval for mining and quarrying activity may also include accessory concrete batching plants, asphaltic cement mixing plants and/or rock crushing activities on the same lot or adjoining lots which may have directly opposing frontages 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 lots, the outer perimeter of the site shall be considered the lot line. No excavation shall be made within seventy-five (75) feet of the perimeter of the site of the sand, gravel, or other extraction operation; within one hundred (100) feet of any street right-of-way or within two hundred-fifty (250) feet of any building used for residential purposes.

- D. Before issuing a permit the board shall require the owner of the quarry facility to execute a bond not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000) per acre of active quarry throughout a five (5) year period to restore the lands in the manner prescribed herein, including the removal of all structures and machinery.
- E. Land shall be restored, regraded, and resloped as nearly as practicable to its original condition and grade provided, however, that after such reclamation activities, no slope on such land shall be steeper than three (3) feet horizontal to one (1) foot vertical and no greater quantities of drainage water shall flow onto adjoining properties or shall flow at a faster rate onto adjoining properties than such drainage water flowed prior to the commencement of sand, gravel, or other extraction or processing activities on the land reclaimed.
- F. Any permit issued hereunder shall not be for a period exceeding five (5) years. After the expiration date of such special permit, the board may review and grant an extension of time in the manner and procedure as prescribed for an original application.
- G. The application shall be accompanied by a sworn affidavit by the applicant that all permits and approvals required by any local, state, or federal environmental laws or regulations including, but not limited to, water and air pollution laws and regulations, have been secured, and that such use shall be operated in accordance with any such local, state, or federal environmental laws or regulations.

7.061.8 Special Conditions for Commercial Storage of Explosives, Arsenals and Fireworks Manufacture

- A. The location of such an activity is in an area likely to be sparsely developed for reason of topography, lack of existing or planned utilities accessibility or for similar cause.
- B. Such facility shall not be located on a site having an area of less than fifty (50) acres.
- C. All regulations of the State Fire Marshall and the Lewisburg Fire Department relating to the storage of potential and/or octane explosives shall be met.

- D. All regulations of the 1985 Annex A, of the National Fire Protection Association as adopted by the State of Tennessee relating to the storage of explosives shall be conformed with.
- E. Any special permit issued hereunder shall be for a period not exceeding five (5) years. After the expiration date of such special permit, the board may review and grant an extension of time in the same manner and procedure as prescribed for an original application.

7.061.9 Special Conditions for Industrial Activities Categorized for Review by the Board of Zoning Appeals Listed in Chart 1

- A. Access for heavy trucks and employees is from a major thoroughfare or industrial access road from a major thoroughfare with residential streets unaffected.
- B. The application shall be accompanied by a sworn affidavit by the applicant that all permits and approvals required by any local, state, or federal environmental laws or regulations including, but not limited to, water and air pollution laws and regulations, have been secured, and that such use shall be operated in accordance with any such local, state, or federal environmental laws or regulations.

7.061.10 Special Conditions for Adult-Oriented Establishments

- A. No establishment shall be closer than 500 feet (measured from property line to property line) from another adult-oriented establishment.
- B. No establishment shall be closer than 1,000 feet (measured from property line to property line) to any residential zone, or any use classified in the following categories of CHART 1 of ARTICLE 5.060: COMMUNITY ASSEMBLY, HEALTH CARE FACILITIES, RELIGIOUS FACILITIES, AND GROUP ASSEMBLY.
- C. Comply with all provisions of the Tennessee Code Annotated, Sections 7-51-1101 thru 7-51-1121 and 7-51-1401 thru 7-51-1406, including any amendments.
- D. Sign messages shall be limited to verbal description of material or services available on the premises and may not include any graphic or pictorial depiction of material or services available on the premises.
- E. Messages or signs which are visible or intended to be visible from outside the property (such as on or within doors on windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises, or pictures, films, or live presentation of persons performing, or services offered on the premises.

7.061.11 Special Conditions for a Bed and Breakfast Home Residence:

In addition to the requirements of the applicable district and the general requirements set forth in SECTION 7.060, C, the following special conditions shall be met prior to issuing a building permit:

- A. Bed and breakfast home residences shall be established only within preexisting single-family residences.
- B. Bed and breakfast home residences shall continuously maintain current licenses and permits as required by local and state agencies.
- C. Bed and breakfast home residences shall be solely operated by members of the family residing in the residence.
- D. The only meal to be provided to guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.
- E. No food preparation or cooking for guests shall be conducted within any bedroom made available for rent.
- F. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes.
- G. Bed and breakfast home residences shall be limited to a single on-premises sign which shall be no greater than eight (8) square feet in size and shall be located no closer to the street right-of-way line than fifteen (15) feet.
- H. One (1) off-street parking space shall be provided for each room rented in addition to the required two (2) spaces required for the single-family residence. All such spaces shall be screened from view from adjoining property and shall not be located within any required front yard.
- I. If food is prepared or cooked, a menu made available, and a price is charged therefor, a food server's license must be obtained from the Tennessee Department of Health.
- J. A smoke detector shall be installed in each sleeping room, and a fire extinguisher ten pounds in size or larger shall be installed and made easily accessible on each floor or story.
- K. An evacuation plan must be approved prior to the issuance of a building permit for a bed and breakfast home residence.

- L. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood, and the intent of the zoning district in which it is located.

7.061.12 Special Conditions for Recycle Centers

- A. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
- B. All separation or picking of waste materials shall be conducted in an enclosed building only.
- C. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method.
- D. Entrance to the site shall be controlled at all times to prevent improper dumping on the site.

7.061.13 Special Conditions for Incinerators and Atomic Reactors

- A. The property shall be located at least 1,000 feet away from any school or residentially zoned property, as measured from property line to property line.
- B. No principal or accessory building, where processing or storage of hazardous materials occurs, shall be located closer than two hundred (200) feet from any site boundary line.
- C. All organic or combustible materials which are to be burned shall be stored on or in a concrete slab hopper enclosed by a building, masonry walls, or security fencing provided with doors or gates which shall be securely locked when the unit is not in operation. All combustible materials are to be burned within 48 hours of the time they are received.
- D. Wastes and residues resulting from the operation shall be disposed of in compliance with all state and federal regulations. A Waste Management Plan shall be developed and maintained by the facility, resulting in minimal amounts of waste being stored on site prior to disposal. A copy of the Waste Management Plan shall be submitted to the Lewisburg Planning Department.
- E. An Emergency Response Plan (ERP) shall be developed and maintained by the facility. The ERP shall address methods utilized by the facility to reduce and eliminate fire and explosion hazards as well as the response to such emergencies. The ERP shall be reviewed and approved by the Lewisburg Fire

Department prior to any operation of the combustion unit taking place on the site.

- F. Copies of air, stormwater, solid and hazardous waste permits, and all other required environmental permits shall be submitted to the Lewisburg Planning Department prior to operating the combustion unit.

7.061.14 Special Conditions for Hazardous and Radioactive Waste

- A. The property shall be located at least 1,000 feet away from any school or residentially zoned property, as measured from property line to property line.
- B. No principal or accessory building, where processing or storage of hazardous materials occurs, shall be located closer than two hundred (200) feet from any site boundary line.
- C. Wastes and residues resulting from the operation shall be disposed of in compliance with all state and federal regulations. A Waste Management Plan shall be developed and maintained by the facility, resulting in minimal amounts of waste being stored on site prior to disposal. A copy of the Waste Management Plan shall be submitted to the Lewisburg Planning Department.
- D. Copies of air, stormwater, solid and hazardous waste permits, and all other required environmental permits shall be submitted to the Lewisburg Planning Department prior to operating the combustion unit.
- E. An Emergency Response Plan (ERP) shall be developed and maintained by the facility. The ERP shall address methods utilized by the facility to reduce and eliminate fire and explosion hazards as well as the response to such emergencies. The ERP shall be reviewed and approved by the Lewisburg Fire Department prior to any waste handling taking place on the site.
- F. A security guard shall be stationed at the site at all times. A suitable shelter and/or living quarters shall be provided.
- G. All industrial areas of the property shall be surrounded by security fencing and lighting.

7.061.15 Special Conditions for Biofuel Production Facilities

- A. The property shall be located at least 1,000 feet away from any school or residentially zoned property, as measured from property line to property line.
- B. No principal or accessory building, where processing or storage of hazardous materials occurs, shall be located closer than two hundred (200) feet from any site boundary line.

- C. Wastes and residues resulting from the operation shall be disposed of in compliance with all state and federal regulations. A Waste Management Plan shall be developed and maintained by the facility, resulting in minimal amounts of waste being stored on site prior to disposal. A copy of the Waste Management Plan shall be submitted to the Lewisburg Planning Department.
- D. An Emergency Response Plan (ERP) shall be developed and maintained by the facility. The ERP shall address methods utilized by the facility to reduce and eliminate fire and explosion hazards as well as the response to such emergencies. The ERP shall be reviewed and approved by the Lewisburg Fire Department prior to any Biofuel production taking place on the site.
- E. Copies of air, stormwater, solid and hazardous waste permits, and all other required environmental permits shall be submitted to the Lewisburg Planning Department prior to operating the combustion unit.

7.061.16 Telephone Exchanges and Relay Towers

- A. Towers shall not be located in the approach or landing zone of an airport or heliport. The applicant shall provide a written statement from the Lewisburg Airport Authority that the location has been reviewed and that the location is not of concern or that special provisions will be required based on the proposed location. Said statement shall be submitted to the BZA Board as part of the request for Conditional Approval.
- B. If the tower is to be equipped with hazard lights, the use of white strobe lights shall be restricted to daylight hours. A lighting plan must be submitted with Application.
- C. Owners of towers shall provide the City co-location opportunities, free of charge, as a community benefit to improve radio communications for City departments and emergency services.
- D. For towers up to 130 feet in height, the structure and fenced compound shall be designed to accommodate at least 2 providers; and for towers 131 feet in height or greater, the structure and fenced compound shall be designed to accommodate at least 3 providers.
- E. Such towers may not locate within a 1-mile straight line measurement of an existing tower or antenna structure unless it can be shown that the existing tower cannot accommodate the proposed antenna and that the proposed antenna is needed.
- F. All structures shall be located a minimum distance of 125% of the height of the tower from any property line. Exceptions from this setback may be

considered by the BZA Board if the applicant provides details stamped by a Professional Engineer showing that the tower is designed with a specific break point to allow for a shorter potential fall distance from the base of the tower. In this case, the BZA may consider approval of a setback of 125% of the anticipated fall distance.

- G. No signs shall be allowed on any antenna or tower or accompanying facility.
- H. Stealth design of towers shall be mandatory if erected on lots that are zoned residential or commercial, and/or are adjacent to residentially zoned areas.
- I. Towers shall not be located where they will negatively affect historic structures or districts, or scenic view corridors.
- J. All towers and supporting equipment governed by this Ordinance shall be enclosed by fencing not less than eight (8) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood, or other alternative as approved through the approval process.
- K. Tower facilities and associated components such as equipment shelters shall be landscaped with a landscaped area of plant materials which effectively screens the view of the tower compound. Landscaped areas shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound.
- L. To facilitate the review of new tower construction locations, each applicant seeking to locate a new tower shall provide to the Planning Department an updated inventory of its existing towers or alternative tower structures as part of the application process. The inventory shall include all such structures that are within the jurisdiction of the governing authority and are within one-quarter mile outside the corporate limits of the City of Lewisburg. This inventory shall include specific information about the location (latitude and longitude coordinates, height, design, tower type and general suitability for antenna collocation of each tower, and other pertinent information as may be required by the Planning Department.

7.070. Board of Zoning Appeals. In accordance with 13-7-205, Tennessee Code Annotated, a Lewisburg Board of Zoning Appeals, consisting of five (5) members, is hereby established. Not more than two (2) members may be from the Lewisburg Municipal Planning Commission. All members of such board shall be appointed by the Chief Executive Officer of the City.

A. Term of Office of Board Members, Removal, and Vacancies

The members of the Board of Zoning Appeals shall serve for a five (5) year term, or until their respective successors are appointed and qualified. The Board first

appointed shall serve respectively for the following terms: one (1), two (2), three (3), four (4), and five (5) years, respectively. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the City Council and may be removed from membership on the Board for Zoning Appeals for continued absence or just causes. Any member being so removed shall be provided, upon his/her request, a public hearing upon the removal decision. Vacancies of said Board of Zoning Appeals shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

B. Procedure:

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

C. Appeals to the Board:

An appeal to the Lewisburg Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appeals were taken.

The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

D. Stay of Proceedings:

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Zoning Appeals, 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. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

E. Appeal to the Court:

Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Board may seek review by a court of competent

jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

F. Powers of the Board:

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review:

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

2. Special Exceptions:

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

3. Variances:

To hear and decide applications for variances from the terms of this ordinance.

7.080. Variances. The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variances shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application:

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Fee:

A fee of two hundred fifty dollars (\$250) payable to the City of Lewisburg 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.

C. Hearings:

Upon a receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within a reasonable time of such hearing and in accordance with the standards provided below.

D. Standards for Variances:

The Board 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 that 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 the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings 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 the property is located.
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.

10. Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic places upon a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building, and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historic designation.

7.090. Amendments to the ordinance. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the City Council of Lewisburg. Any member of the City Council may introduce such legislation, or any official, board, or any other person may present a petition to the City Council requesting an amendment or amendments to this ordinance or maps. These amendments must be in relation to the Comprehensive Plan and the general welfare of the community.

A fee of two hundred fifty dollars (\$250) payable to the City of Lewisburg shall be charged to cover partial review and processing of each application for an amendment, except that the fee shall be waived for a governmental agency.

An application by an individual for an amendment shall be accompanied by maps, drawings, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with application no later than ten (10) working days prior to the next scheduled Planning Commission meeting.

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

The Planning Commission in its review and recommendation and the Mayor and City Council in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

- A. The amendment is in agreement with the general plan for the area;
- B. It has been determined that the legal purposes for which zoning exists are not contravened;
- C. 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;
- D. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the Lewisburg Municipal Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days following the Planning Commission meeting wherein such amendment is entertained within which to submit its report. If

the Planning Commission disapproves the amendment within thirty (30) days, it shall require the favorable vote of a majority of the entire membership of the City Council to become effective. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission and approved by it, or, if disapproved, receive the favorable vote of a majority of the entire membership of the City Council.

Before enacting an amendment to this ordinance, the City Council shall hold a public hearing thereon, after giving adequate public notice.

7.100. Penalties. Any persons violating any provision of this ordinance shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) for each offense. Each day such violations continue shall constitute a separate offense.

7.110. Remedies. In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this ordinance, the Building Inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

7.120. Separability. Should any SECTION, clause, or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

7.130. Interpretation. Whenever the conditions of this ordinance require more restrictive standards than are required in or under any other statute, the requirements of this ordinance shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this ordinance, the conditions of such statute shall govern.

7.140. Effective date. This ordinance shall take effect and be in force fifteen (15) days from and after the date of its adoption, the public welfare demanding it.

Certified by the Lewisburg Municipal Planning Commission

July 10, 1990
Date

John Owen
Chairman
Lewisburg Municipal Planning Commission

Approved and adopted by the City Council of the City of Lewisburg

November 13, 1990
Date

Charles
Mayor, Lewisburg, Tennessee

ATTESTED:

Roger E. Brandon
City Recorder