TABLE OF CONTENTS

ARTICLE I - ENACTMENT 7
1.010 Authority. 7
1.020 Title. 7
1.030 Enactment. 7
1.040 Purpose. 8
ARTICLE II - DEFINITIONS 9
2.010 Scope. 9
2.020 Definitions. 9
2.030 Use Classification. 29
2.031 Listing of Activity Classifications. 29
2.032 Accessory Uses. 31
2.033 Classification of Combinations of Principal Activities. 31
2.034 Residential Activities: Class and Type. 32
2.035 Community Facilities Activities: Class and Type. 33
2.036 Commercial Activities: Class and Type. 38
2.037 Industrial Activities: Class and Type. 50
2.038 Agricultural and Extractive Activities: Class and Type. 52
ARTICLE III - GENERAL PROVISIONS 55
3.010 Scope. 55
3.020 Only one (1) principal structure on any residential lot. 55
3.030 Lot must abut a public street or dedicated easement. 56
3.040 Rear yard abutting a public street. 56
3.050 Corner lots. 57
3.060 Future Street lines. 57
3.070 Reduction in lot area prohibited. 57
3.080 Obstruction to vision at street intersections and railroad intersections prohibited. 57
3.090 Access control. 57
3.100 Accessory use regulations. 58
3.110 Buffer strip. 60
3.120 Site Plans. 62
3.130 Solar orientation. 67

3.140 Antennas and satellite (TV) dishes. 67
3.150 Landscape Treatment Regulations. 67
3.160 Telecommunications Structures. 72
3.170 Sidewalks. 101
3.180 Fences. 102
3.190 Outside display and outside storage. 103
3.200 Traffic Impact Studies. 104
3.210 All portions of a building or structure must be located within the boundaries of a parcel. 106
ARTICLE IV - SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS 107
4.010 Off-street parking requirements. 107
4.010.1.A Residential Activities 108
4.010.2.A Community Facility Activities 109
4.010.3.A Commercial Activities 111
4.010.3.A(1) Uses Located on Freestanding Sites 111
4.010.3A(2) Uses Located Within Commercial Complexes 113
4.010.3.A(3) Shared Parking 114
4.010.4.A Manufacturing and Industrial Activities 114
4.010.5.A Agricultural, Resource Production, or Extractive Activities 115
4.010.6.A Other Land Uses 115
4.010.7.A Extension of Parking Space into a Residential District 115
4.010.7.B Requirements for Design of Parking Lots 116
4.020 Off-street loading and unloading requirements 116
4.030 Temporary use regulations. 117
4.040 Customary incidental home occupations. 130
4.050 Fall-out shelter restrictions. 131
4.060 Gasoline Service Station Restrictions. 131
4.070 Planned Development Regulations. 131
4.080 Special Provisions for Party Walls. 146
4.090 Development standards for mobile home parks. 148
4.100 Development standards for automobile wrecking junk and salvage yards. 151
4.110 Reserved. 153
4.120 Reserved. 153
4.130 Performance standards regulations. 153

4.140 Minimum residential front yard requirements on turn-arounds of cul-de-sac streets. 156
4.150 Special provisions for residential occupancy in connection with mini-warehouse facilities. . 157
4.160 Development standards as apply to duplex residential dwellings, as well as zero-lot line two-family dwellings. 157
4.170 Development Standards as apply to multi-family dwellings. 159
4.180 Supplemental Side Yard Building Setback Requirements. 160
4.190 Supplemental Provision for Alternative Financial Services Businesses. 160
4.200 Supplemental Provision for Auto Towing Services Businesses. 161
4.210 Supplemental Provision for tobacco, vape and cannabinoid retail establishments. 161
ARTICLE V - ZONING DISTRICTS 162
5.010 Classification of districts. 162
5.020 Zoning Map. 163
5.030 Zoning district boundaries. 163
5.040 Zoning of annexed territory. 163
5.050 Specific district regulations. 163
5.051 Residential Districts. 164
5.051.1 R-1, Low-Density Residential District. 165
5.051.2 R-2, Low-Density Residential District. 168
5.051.3 R-3, Medium Density Residential. 171
5.051.4 R-4, Medium-Density Residential District. 174
5.051.5 R-5, High-Density Residential District. 178
5.051.6 R-6, High-Density Residential District. 182
5.052 Commercial Districts. 185
5.052.1 C-1, Central Business District. 187
5.052.2 C-2, General Commercial District. 190
5.052.3 C-3, Restricted Commercial District. 194
5.052.4 C-4, Neighborhood Service Business District. 196
5.052.5 P-O-1, Professional and Office District. 199
5.052.6 P-O-2, Professional and Office District. 201
5.052.7 C-5, Highway Service District. 203
5.053 Industrial Districts. 207
5.053.1 I-1, Light Industrial District. 209
5.053.2 I-2, Light Industrial District. 213

5.053.3 I-3, Heavy Industrial District. 216
5.054 Floodway District. 219
5.054.1 F-1, Floodway District. 219
5.055 A-1, Airport District. 221
5.056 H-1, Historic Overlay District. 224
5.057 H-2, Height Overlay District. 228
5.058 LSO, Lowry Street Overlay District. 229
E. Central Depot District (CDD): 243
F. Mixed-Use Development District (MUD): 247
G. Mixed-Use Corridor District (MUC): 253
H. Railroad Frontage District (RFD): 258
5.059 ESO, Enon Springs Gateway Overlay District. 264
ARTICLE VI - EXCEPTIONS AND MODIFICATIONS 281
6.010 Scope. 281
6.020 Nonconforming uses. 281
6.030 Special Provisions Governing Nonconforming Buildings within the Floodway District. 285
6.040 Bulk and Lot Size Noncompliance. 286
6.050 Exceptions to Height Limitations 287
6.060 Lots of Record. 288
6.070 Exceptions to Setback Requirements. 288
6.080 Absolute Minimum Lot Size. 288
ARTICLE VII - ADMINISTRATION AND ENFORCEMENT 290
7.010 Administration of the ordinance. 290
7.020 The enforcement officer. 290
7.030 Building permits. 291
7.040 Temporary use permit. 294
7.050 Certificate of occupancy. 294
7.060 Procedure for authorizing special exceptions. 295
7.070 Board of Zoning Appeals. 317
7.080 Variances. 319
7.090 Amendments to the ordinance. 321
7.100 Penalties. 322
7.110 Remedies. 323

7.120 Separability. 323
7.130 Interpretation. 323
7.140 Effective date. 323
ARTICLE VIII - DESIGN REVIEW 324
8.010 Intent and purpose. 324
8.020 Role of the Smyrna Municipal Planning Commission. 325
8.030 Design Review Manual. 325
8.040 Development Subject to Design Review. 325
8.050 Development exempt from Design Review. 326
8.060 Design Review applications and processing. 326
8.070 Design Review Standards. 327
8.080 Public Works. 328
8.090 Application; Vested Rights. 328
8.100 Continuing Maintenance. 328
8.110 Prohibitions. 329
ARTICLE IX - FLOODPLAINS 330
9.010 Statutory Authorization. 330
9.020 Statement of Purpose. 331
9.030 Objectives. 331
9.040 Definitions. 332
9.050 General Provisions. 341
9.060 Administration. 343
9.070 Provisions for Flood Hazard Reduction. 347
9.080 Variance Procedures. 355
9.090 Legal Status Provisions. 358
ARTICLE X - SMYRNA/RUTHERFORD COUNTY AIRPORT HEIGHT ZONING ORDINANCE 359
10.010 Enactment. 359
10.020 Definitions. 360
10.030 Airport Zones. 363
10.050 Use Restrictions. 365
10.060 Nonconforming Uses. 366
10.070 Permits. 366
10.080 Enforcement. 368

10.090 Judicial Review. 368
10.100 Penalties. 368
10.110 Conflicting Regulations. 368
10.120 Severability. 369

ARTICLE I - ENACTMENT

SECTION

1.010 - Authority
1.020 - Title
1.030 - Enactment
1.040 - Purpose

1.010 Authority.

An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-401, Tennessee Code Annotated to provide for the establishment of districts within the corporate limits of the Town of Smyrna, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes including areas subject to flooding; to provide methods of administration of this ordinance; and to prescribe penalties for the violation thereof.

1.020 Title.

This ordinance shall be known as The Zoning Ordinance of Smyrna, Tennessee dated October 14, 1986. The zoning map shall be referred to as the Official Zoning Map of Smyrna, Tennessee and all explanatory matter thereon is hereby adopted and made a part of this ordinance.

1.030 Enactment.

WHEREAS, Section 13-7-201 through 13-7-401 of the Tennessee Code Annotated empowers the Town to enact a zoning ordinance and to provide for its administration enforcement, and amendment, and

WHEREAS, The Town Council deems it necessary, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the Town to enact such an ordinance, and

WHEREAS, all the requirements of Section 13-7-201 through 13-7-401 of the Tennessee Code Annotated with regard to the preparation of the zoning plan of the Planning Commission and subsequent action of the Town Council have been met;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL THAT THE ZONING ORDINANCE OF SMYRNA, TENNESSEE IS ENACTED INTO LAW.

1.040 Purpose.

The purpose of this ordinance is to promote the public health, safety, morals, convenience, order, prosperity and general welfare by:

a. enhancing the character and stability of residential, business, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;

b. preventing the overcrowding of land;

c. conserving the value of land and buildings;

d. minimizing traffic hazards and congestion;

e. preventing undue concentration of population;

f. providing for adequate light, air, privacy, and sanitation;

g. reducing hazards from fire, flood, and other dangers;

h. assisting in the economic provision, utilization, and expansion of all services provided by the public, including but not limited to roads, water and sewer services, recreation, schools, and emergency services;

i. encouraging the most appropriate uses of land; and

j. enhancing the natural, man-made and historical amenities of Smyrna, Tennessee.

ARTICLE II - DEFINITIONS

SECTION

2.010 - Scope
2.020 - Definitions
2.030 - Use Classifications

2.010 Scope.

For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as follows:

A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

C. The word "shall" is mandatory.

D. The word "may" is permissive.

E. The words "used" or "occupied" includes the words "intended," "designed," or "arranged to be used" or "occupied".

F. The word "lot" includes the words "plot" or "parcel".

2.020 Definitions.

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have their standard dictionary definitions or such as the context may imply.

ACCESS: The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

ACCESSORY BUILDING: A subordinate building, or structure, the use of which is incidental to that of a principal building and located in the side or rear yard on the same lot therewith.

ACCESSORY STRUCTURE: Shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, which may result in damage to other structures.
5. Service facilities such as electrical and heating equipment shall be elevated or flood proofed.
6. Accessory structures shall only be allowed in the side or rear yard.

ACCESSORY USE: A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located within the rear yard upon the same lot therewith.

ADDITION (TO AN EXISTING BUILDING): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

ADULT-ORIENTED ESTABLISHMENT: Shall be as defined in the Town of Smyrna Municipal code and include, but shall not be limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, or adult cabarets, and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult-oriented establishment further includes, without being limited to , any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

ADVERTISING: Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designs used or intended for advertising, whether placed on the ground, rocks, trees, tree

stumps, or other natural structures or on buildings, structures, milestones, signboards, wallboard, roofboard, frames, supports, fences or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.
ADVERTISING SIGN OR STRUCTURE: See Sign.

AGRICULTURAL USE: This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, viticulture, floriculture, forests, and woods, provided, however, all health codes of Smyrna, Tennessee are complied with.

The feeding or disposal of community or collected garbage to animals shall not be deemed an agricultural use, nor shall commercial feed lots, the raising of furbearing animals, fish or minnow hatcheries, riding stables, livery or boarding stables or dog kennels be so considered.

AGRICULTURAL ACCESSORY USE: Those structures or equipment, which are normally required in the operation of agricultural uses.

ALLEY: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility and public service purposes.

ALTERNATIVE FINANCIAL SERVICES: Any non-chartered financial institution offering check cashing services, currency exchange, pay-day loans, car title loans, industrial loan and thrift, and/or similar services as its primary function.

ALTERATION: As applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending a side or by increasing its height or structural changes, other than repairs, that would affect safety. The term "alter" in its various modes and tenses and its practical forms, refers to the making of an alteration.

APPEAL: Means a request for a review of the Building Official's interpretation of any provision of this Ordinance or a request for a variance.

AREA, BUILDING: The total areas taken on a horizontal plane at the main grade level of the principal building and all necessary buildings exclusive of uncovered porches, terraces, and steps.

AUTO TOWING SERVICES: Establishment that provides for the removal and temporary storage of wrecked or impounded motor vehicles but does not include disposal, permanent disassembly, salvage, or sales of parts.

AUTOMOBILE WRECKING: The dismantling, storage, sale or dumping of used motor vehicles, trailers, or parts thereof.

AUTOMOBILE WRECKING, JUNK, AND SALVAGE YARDS: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

AVERAGE GROUND ELEVATION: The elevation of the mean finished grade of the principal structure at the front of a structure.

BAIL BOND AGENCY: A business engaged in provided bail or surety bonds for persons accused of criminal offenses.

BASEMENT: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevations or when subdivided and used for commercial activities.

BASE ZONING DISTRICT: The term referring to a zoning district when it is affected by an overlay zoning district.

BED AND BREAKFAST: A private, owner-occupied residence with guestrooms where overnight accommodations and a morning meal are provided for compensation.

BEER STORE: A retail store established solely for or to include for the purposes of the retail sales of beer as defined in the Tennessee Code Annotated and as provided for under terms and conditions within the Smyrna Municipal Code, Title 8, Chapter 2.

BOARD: The Smyrna Tennessee Board of Zoning Appeals.

BOARDING HOUSE: See dwelling definitions.

BUFFER STRIP: An area of land, which could include landscaping, berms, walls, or fences, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use.

BUILDING: Any structure having a roof supported by columns or by walls, including tents, lunch wagons, dining cars, mobile homes, mobile offices, and similar structures whether stationary or movable.

BUILDING COMMISSIONER: The Building Official for the Town of Smyrna, Tennessee.

BUILDING AREA OF A LOT: That portion of a lot bounded by the required rear yard, side yards, and the building setback line.

BUILDING, ELEVATED: A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or break away walls.

BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

BUILDING SETBACK LINE(S), SIDE: A line delineating the minimum distance between the side property line and a building on a lot (other than for permitted accessory structures and buildings). The side setback line extends from the front building setback line to the rear building setback line. In the case of corner lots in residential districts, side building setback lines extend from the front building setback line of the servicing street to the other front building setback line adjoining the secondary street which abuts said corner lot.

BUILDING SETBACK LINE, FRONT: A line delineating the minimum allowable distance between the street right-of-way, or if an official future street right-of-way has been established, as shown on the current, adopted Major Thoroughfare Plan Map, from that future street right-of-way line, and the front of a principal building on a lot.

The front building setback line extends the full width of the lot and is parallel to or concentric with the street right-of-way. No building or structure shall be placed in front of this building setback line.

BUILDING SETBACK LINE, REAR: A line delineating the minimum allowable distance between the rear property line and a building on a lot (other than for permitted accessory structures and buildings). The rear setback line extends the full width of the lot.

BULK: Describes the size of buildings or other structures, and their relationship to each other, and to open areas and lot lines.

BUSINESS AND COMMUNICATION SERVICES: The provision of clerical services, goods brokerage, communications of a minor processing nature, including multi-copy and blueprinting services, custom printing, but excluding the printing of books, other than pamphlets and small reports.

CAMPING GROUND: A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

CLIMATE-CONTROLLED: A state of atmospheric regulation in which temperature and humidity are prevented from reaching extremes. The source of air temperature regulation shall be via indirect heating or cooling, not through individual heaters or air conditioners in individual units. Mainly associated with "self-service storage facilities."

CLINIC: See Medical Facility.

CONDITIONAL USE: A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district as conditional uses, only when specific provisions for such uses are made in this Ordinance, conditional uses shall be construed as being synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code Annotated. See special exceptions.

CONVENIENCE SALES: The retail sale of small convenience items such as toiletries, tobacco, and magazines. The dispensing of petroleum products may be included as accessory to convenience food products retailing.

CONVENIENCE SERVICES: Services which are typically needed frequently or recurrently, such as barber and beauty care; and includes the operation of self-service Laundromats but excludes other apparel cleaning and repair services.

COVERAGE: The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

COUNTRY CLUB: A chartered, nonprofit membership club, with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, riding, club house, pool, dining facilities, and lounge.

CREMATORIUM: A building or structure containing properly installed, certified apparatus intended for use in the act of cremation.

DAY CARE CENTER: A facility other than an occupied residence which receives children for day care or any place, including nursery schools, which provide definite, specified educational programs, which receives more than 12 children for related day care services. (See definition of Family Day Care Home for comparison).

DEVELOPMENT: Any man-made change to improve or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

DISTRICT: Any section or sections of the area lying within Smyrna, Tennessee, for which the regulations governing the use, density, bulk, height, and coverage of buildings and other structures are in force.

DWELLING: A building or part thereof used as a habitation under one of the following categories:

a. Single detached dwelling means a building and accessories thereto principally used, designed, or adapted for use by a single family. With the exception of a bed and breakfast permitted under the provisions of this Ordinance, no single detached dwelling or portion thereof may be rented out to any tenant(s) for a period of less than three months. As used in this definition, "tenant (s)" shall refer to one or more persons actually occupying a dwelling or portion thereof. Notwithstanding the foregoing, if a tenant has occupied a dwelling for a period of three months or more, the same tenant's occupancy may subsequently be extended for periods of less than three months.
b. Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) families, the living quarters of each of which are completely separate.
c. Apartment dwellings means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more families each of which has separate living quarters.
d. Rooming house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and without owner-provided cooking and dining facilities.(See semi-transient habitation definition).

e. Boarding house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and having common cooking and dining facilities.(See semi-transient habitation definition).
f. Townhouse means a residential structure containing three or more single nondetached dwelling units separated by a common vertical wall.
g. Condominium means an apartment building or townhouse, containing three or more dwelling units being under or intended for separate ownership, in which individual living accommodations are provided for each family.
h. Multi-family means a townhouse or apartment dwelling. For the purposes of these regulations, regardless of how rental units are equipped, any multi-family dwelling in which units are available for rental partly on a monthly basis and partly for a shorter period of time, but with more than thirty (30) percent of the living units under the same ownership or management on the same zone lot being occupied on a less-than-monthly basis, shall be considered a semi-transient residential activity. If over thirty (30) percent of such multi-family units under the same management or ownership are occupied on a biweekly basis or less, they shall be considered as transient lodging activity. (See definition of transient habitation).
i. Triplex dwelling means three units designed for use by three families located on the same tract (zone lot).
j. Quadraplex dwellings means four units designed for use by four families located on the same tract (zone lot).
k. Prefabricated or manufactured dwelling means any single detached dwelling installed on a permanently enclosed concrete or masonry foundation, with sewer and water connections designed for permanent connection to municipal or on-site systems. Such structures are transportable in more than one section, having a pitched roof, and are built on a permanent chasis. The term manufactured dwelling or home does not include a recreational vehicle.
l. Mobile home or trailer means a vehicular portable structure designed and constructed in accordance with the requirements of American National Standards Institute Standard A119.1, built on a chassis, designed for year around occupancy and designed to have no foundation other than wheels, jacks, or skirtings, and which is capable of being moved, towed, or transported by another vehicle. For the purposes of the National Flood Insurance program only a mobile home is considered to be a manufactured home.
m. Zero lot line dwelling means a building or structure containing two units (duplex), each unit being located on its own zone lot in separate ownership.

Upper story residential means the area of a building above the ground floor which is principally used, designed, or adapted for use by one or more households each of which has separate living quarters.

Apartment means a separate dwelling that is attached to a single-family residence, or is located in a detached accessory structure, is subordinate in size to the principal residence, has off-street parking provided, and does not change the basic single-family appearance of the principal structure.

Erosion: Means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

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

Existing Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Existing Structures: See "Existing Construction".

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

FAMILY: One or more persons related by blood, marriage, or adoption, or a group not all related by blood, marriage, or adoption, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a boarding or lodging house or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family. The term family as used herein shall be construed to include groups of eight (8) or fewer unrelated mentally retarded or physically handicapped persons and with two (2) additional persons acting as housekeepers or guardian residing within the house (See Chapter 24 of Title 13, T.C.A.).

FAMILY DAY CARE HOME: An occupied residence in which a person provides day care for five or more children or close relatives. Such care in a family day care home is limited to that care given to no more than twelve (12) children, including children living in the home and children of close relatives cared for in the home. (See definition of Day Care Center for comparison).

FARM: A parcel of land containing five or more contiguous acres devoted to agricultural use.

FENCE: An artificially constructed barrier of wood, masonry, stone, wire, metal, vinyl, or other manufactured material or combination of materials erected as a boundary, privacy screen, or enclosure.

FENCE, DECORATIVE: A fence constructed of wood, wrought-iron, vinyl, or brick that is no more than three feet tall.

FINANCIAL, CONSULTING AND ADMINISTRATIVE: Includes the provisions of financial, insurance, real estate brokerage services, as well as the provision of advice, designs, information, or consultation of a professional nature. Also includes the executive, management, administrative, and desired activities of private, profit-oriented firms, other than public utility firms. These activities do not include the storage of goods and chattels for the purpose of sale unless otherwise permitted by other provisions of this regulation.

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

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.

FLOOR AREA: The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits of faces of a building or structure.

FRONTAGE: All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

GASOLINE SERVICE STATION: Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil (but no butane or propane fuels), or automobile accessories, and incidental services including facilities for lubricating, hand car washing and cleaning, or otherwise servicing automobiles, but not including painting or major repair.

GRADE, FINISHED: The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

GREENWAYS PLAN: The adopted Greenways Plan for the Town of Smyrna, Tennessee.

GROUP SHELTER: A facility operated by a public or private agency, which may provide a program of services in addition to room and board to persons under continuous protection or supervision.

HEALTH DEPARTMENT: The Rutherford County Health Department.

HEIGHT OF BUILDING OR STRUCTURES: The vertical distance from the average elevation or finished grade at the building line, whichever is the highest, to the highest point of the building or structure.

Historic Structure: Means any structure that is:

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

2. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior, or

    b. Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION: An occupation or profession that is accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

HOSPITAL: See Medical Facilities.

HOUSEHOLD: All the persons occupying the premises and living as a single nonprofit housekeeping unit regardless of marital status or relationship as distinguished from a group occupying a lodging house or dormitory or similar type of group use.

JUNK YARD OR SALVAGE YARD: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the

collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof. Any lot containing five (5) or more immobile cars shall be deemed a junkyard.

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

LAND WITH INCIDENTAL IMPROVEMENTS: A tract of land which contains improvements including buildings or other structures having a total assessed valuation of five thousand dollars ($5,000) or less.

LIGHT INDUSTRY: Is defined, for the purpose of this ordinance, on the basis of performance in terms of absence of objectionable noise, smoke, odor, dust, dirt, noxious gases, glare and heat; and of the creation of industrial wastes, psychological effects and generation of an undue amount of motor vehicle traffic.

LIQUOR STORE: A retail store established solely for the purposes of the retail sales of package liquor as defined in the Tennessee Code Annotated and as provided for under terms and conditions within the Smyrna Municipal Code, Title 8, Chapter 3.

LOADING SPACE: An area twelve (12) feet by sixty-five (65) feet with a fourteen (14) foot height clearance provided for the standing, loading, or unloading of a truck or other vehicle.

LOT: A piece, plot, or parcel of land in one ownership, which may include one or more lots or record, occupied or to be occupied by one principal building and its accessory buildings, including the open spaces required under this ordinance.

LOT, AREA: The total surface land areas included within lot lines.

LOT, CORNER: A lot of which at least two adjoining sides abut their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

LOT, DEPTH: The average distance from the street line of the lot to its rear line, measured in the general direction of the sidelines of the lot.

LOT, FRONTAGE: That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

LOT, INTERIOR: A lot other than a corner lot.

LOT, LINES: The boundary dividing a given lot from the street, an alley or adjacent lots.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the effective date of this zoning ordinance.

LOT, WIDTH: The width of a lot at the building setback line measured at right angles to its depth.

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

MAJOR THOROUGHFARE PLAN: The adopted Major Thoroughfare Plan for the Town of Smyrna, Tennessee.

MANUFACTURED HOME PARK OR SUBDIVISION: Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARINA: A facility for the docking and servicing of boats.

MEDICAL FACILITIES: Convalescent, Rest or Nursing Home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

DENTAL CLINIC OR MEDICAL CLINIC: A facility for the examination and treatment of ill and afflicted human outpatients, provided, however, that patients are not kept overnight except under emergency conditions.

HOSPITAL: An institution providing health services primarily for human in-patient medical care for sick or injured and including related facilities such as services, and staff offices which are an integral part of the facility.

PUBLIC HEALTH CENTER: A facility utilized by a health unit for the provision of public health services.

MICROBREWERY/MICROWINERY/MICRODISTILLERY: A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, generally referred to as a craft, boutique, or artisan establishment. Tasting rooms, brewpubs, or other facilities for the consumption of any alcoholic beverages produced on-site are permitted on the premises. All relevant federal, state and local regulations apply, including but not limited to T.C.A. Title 57 and the Town of Smyrna Municipal Code Title 8.

MINIMUM FLOOR ELEVATION: The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

MOBILE HOME PARK: Any area, tract, site or plot of land whereupon mobile homes as herein defined are placed, located and maintained, and shall include all accessory buildings used in intended to be used as part of the equipment thereof.

NEW CONSTRUCTION: Means structures for which the "start of construction" commenced on or after the effective date of this ordinance. The term also includes any subsequent improvements to such structure.

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

NONCOMPLYING:

a. Any lot of record which does not contain sufficient lot area to conform to the area requirements for the zoning district in which the lot is located.
b. Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or
c. Any lawful use other than a nonconforming use, which does not comply with any part or any one (1) or more of the applicable regulations pertaining to:
    i. Location along district boundary;
    ii. Accessory off-street parking and loading; either on the effective date of this Ordinance or as a result of any subsequent amendment.

NOXIOUS MATTER: Material in gaseous, liquid or solid form which is capable of causing injury to living organisms, chemical reactions, or detrimental effects upon the social, economic or psychological well-being of individuals.

OPEN SPACE: An area on the same lot with a main building which is open, unoccupied and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance.

OUTSIDE DISPLAY: The placement of goods for sale outside of a building or structure.

OUTSIDE STORAGE: The placement of materials or equipment outside of a building or structure for the purposes of storing the materials or equipment for future use.

OVERALL DENSITY: The residential density in minimum lot size per family or stated dwelling units per acre of any total lot, or development area.

OVERLAY ZONING DISTRICT: A zoning district established to prescribe special regulations to be applied to a site in combination with the regulations of the base zoning district.

OWNER: Includes his duly authorized agent or attorney, purchaser, devisee, fiduciary, and a person having a vested or contingent interest in the property in question.

PARKING LOT: An off-street facility including parking spaces with adequate provisions for drives and aisles for maneuvering and obtaining access, and for entrance and exit.

PARKING SPACE: An off-street space available for parking one motor vehicle and having access to a street or alley.

PARTY WALL: A wall on an interior lot line, used or adapted for joint service between two buildings; such walls shall extend from the foundation to the underside of the roof sheathing, without openings which otherwise would permit the spread of fire from one building to another, and shall fully comply with fire and all other provisions and standards established for such walls in the adopted Building Code.

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

PLANNED DEVELOPMENT: A single planned area of land which is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property; the ownership of the common property may be either public or private. Planned developments consist of relatively large interrelated developments located on a single tract of land. Cluster developments and mixed use developments of all types are planned unit developments. Many shopping centers of various types fall under this definition of planned development.

PLANNING COMMISSION: The Smyrna Municipal Planning Commission.

PLAT: A map, plan, or layout indicating the location and boundaries of individual properties.

PREFABRICATED DWELLING: See classification K under the definition of a dwelling.

PRINCIPAL STRUCTURE: A structure, which constitutes the principal activity or use, located on a zone lot on which it is located.

PRINCIPAL USE: The specific primary purpose for which land or a building is used.

PRIVATE WASTEWATER TREATMENT: Individual subsurface sewage disposal systems (i.e., septic tanks), package treatment plants or individual aeration systems employed for the collection and treatment and/or disposal of wastewater, as approved by the appropriate Department of the State of Tennessee.

PROFESSIONAL OFFICE: The office of a physician, dentist, attorney, architect, engineer, planner, accountant, or similar professions.

PUBLIC USES: Public parks, schools, and administrative, cultural, and services buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

PUBLIC WASTEWATER SYSTEM: A municipal, community, or utility district sewerage treatment and disposal system of a type approved by the State Department of Health and Environment, and the Tennessee Regulatory Authority.

PUBLIC WATER: A municipal, community or utility district water treatment and distribution system of a type approved by the State Department of Health and Environment and the Tennessee Regulatory Authority.

REACH: A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the floodplain where flood heights are primarily controlled by man-made or natural floodplain obstructions or restrictions.

Recreational Vehicle: Means a vehicle that is:

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

REQUIRED YARD: That portion of a zone lot that is required by the specific district regulation to be open from the ground to the sky, and which may contain only explicitly listed obstructions.

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a highway, street, alley railway, or other passageway intended for the passage of people or goods.

ROADWAY: The actual road surface including necessary road shoulders and drainage facilities including ditches, curbs, and gutters, which is used to transport motor vehicles.

ROOMING UNIT: Living accommodations occupied partly on a monthly or longer basis and partly for a shorter time period, but with more than thirty (30) percent of time living units under the same ownership, control, or management on the same zone lot being occupied on a less than monthly basis.

SANITARY LANDFILL: An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the State Department of Health and Environment.

SELF-SERVICE STORAGE FACILITIES: Facilities containing units to be sold or leased for the purpose of storing household goods. For the purposes of this ordinance, this term shall be interchangeable with “mini-warehouses”, “convenience storage”, and “household goods storage.”

SEMI-TRANSIENT HABITATION: Living accommodations occupied partly on a monthly or longer bases and partly for a shorter time period, but with more than thirty (30) percent of the living units under the same ownership, control or management on the same zone lot being occupied on more than a by-weekly basis but on less than a monthly basis. (See transient habitation definition).

SHELTER, FALL-OUT: A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fall-out, air raids, storms, or other emergencies.

SHOPPING CENTER: A group of compatible commercial establishments planned, developed, and managed, as a unit, with an automobile storage area provided on the property; the center must also be related in location, size, and type of shop to its trade area.

SIGN, BILLBOARD, OR OTHER ADVERTISING DEVICE: Any structure or part thereof or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or any representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" includes the word "billboard" and "posterboard" as well as any other type of advertising device, but does not

include the flag, pennant, or insignia of any nation, state, city, or other political unit. All signs fall under the definition of a structure as cited in this ordinance. Moreover all billboards and posterboards fall under the definition of a principal structure as cited in this Ordinance.

SOLID WASTE SERVICES: Any service involving the storage of specialized transport vehicles and/or waste containers for the purpose of delivering empty containers to a site and transporting loaded containers to a legally permitted landfill or processing center. This use could include roll-off container services, commercial front loaded container services, and residential curbside collection. This use may include vehicle maintenance and container repair, but strictly prohibits the on-site unloading sorting, processing, or storage of waste material.

SPECIAL EXCEPTION: A use specifically permitted if the owner can demonstrate to the satisfaction of the Board that it will meet certain standards, enumerated safeguards, or qualifying conditions.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

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

STORY: That portion of a building included between the upper surface of any flood and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of the floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story". A basement shall be considered as a story if more than half of its height is above the average ground level from which the "height of a building" is measured of if it is used for commercial purposes.

STREET: A public road, highway, or thoroughfare which constitutes, or is designed to constitute, the main access to more than one lot and which has been legally dedicated and accepted for public use by the Town of Smyrna.

STRUCTURE: Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, solar devices, antennas, and satellite or T.V. dishes, or other man-made facilities or infrastructure. Mailboxes shall not be determined to be a structure.

TEMPORARY SIGN: Temporary signs shall include any sign, banner, pennant, valance, or advertising display constructed of wood, metal cloth, canvas, light fabric, cardboard, wallboard, or other light material, with or without frames, where either by reason of construction or purpose of sign is intended to be displayed for a short period of time only.

TEMPORARY USE: A use established for limited duration with the intent to discontinue upon the expiration of the designated approved time period.

TOBACCO, VAPE AND CANNABINOID RETAIL ESTABLISHMENT: An establishment where twenty-five percent (25%) or more of the net floor or shelf area is dedicated to, or fifty-one percent (51%) or more of gross sales are derived from, the display, sale, distribution, or marketing of tobacco products, electronic smoking devices (vapes), and/or products derived from the *Cannabis sativa L.* plant (including but not limited to CBD, Delta-8, Delta-9, or other hemp-derived cannabinoids). This includes all associated paraphernalia, delivery devices, components, and liquids. This definition shall not include any establishment where such products are incidental to the primary retail use, such as a full-service grocery store or a licensed pharmacy.

TOURIST HOME: A residential building where lodging is furnished to transients for compensation, and containing not more than five (5) sleeping rooms for such transients.

TOXIC MATERIALS: Materials (gaseous, liquid, solid, particulate) which is capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

TRANSIENT HABITATION: Separate lodging or living accommodations for rent or lease of a commercial nature. Such uses as hotels, motels, tourist homes and courts, as well as commercial campgrounds (sporting and recreational vehicle camps) falls under this classification. Multi-family dwelling complexes of all types in which more than thirty (30) percent of their units are occupied on a biweekly basis or less shall be considered as being transient habitation.

TRAVEL TRAILER (MOTOR HOME): A vehicular, portable structure designed as a temporary dwelling for travel, recreation, and vacation uses.

TRAVEL TRAILER (MOTOR HOME) PARK: A plot of land designed and equipped to accommodate travel trailers for short periods of time.

USE: The purpose for which land or a building or other structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

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.

VEHICULAR USE AREA: Any ground surface area except public rights-of-way, used by any type vehicle whether moving or at rest for the purpose of driving, parking, loading, storage or display (automotive sale lots). Also included are activities of a drive-in nature in connection with banks, restaurants, filling stations, grocery stores, etc.

WATERCOURSE: Any depression serving to give direction to a flow of water, having a bed and well-defined banks, where the drainage area above ten (10) acres or more in extent, provided that it shall, upon the rule or order of the Planning Commission also include other generally or specifically designated areas where flooding may occur. The flow of water need not be on a continuous basis but may be intermittent resulting from the surface runoff of precipitation.

YARD: An open space on the same lot with a principal building or structure, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance, provided that accessory buildings may be located in a rear yard.

YARD, FRONT: The yard extending across the entire width of the lot between the nearest part of the principal building or structure, including porches, and the front lot line.

YARD, REAR: The yard extending across the entire width of the lot between the nearest part of the principal building or structure, including porches and the rear lot line.

YARD(S), SIDE: The required space unoccupied measured between the side lot line and the nearest point of the principal building or structure, between the front yard and rear yard on both sides of the principal structure. In the case of corner lots in residential districts, the required side yards shall be measured between both side lot lines and their respective minimum distances from their nearest points of intersection with the affected principal structure. These required side yards shall be situated between both necessary front yards, and are located on both sides of the principal structure running the entire length of the lot between such front yards.

YARD SALE: The temporary sale of used household or personal property conducted on a residential property. The term "yard sale" includes garage sales, tag sales, rummage sales, estate sales, moving sales and similar temporary sales of used personal property. The act of reselling, liquidation reselling, flipping or swap meets shall be prohibited.

ZERO LOT LINE DWELLING: (See definition of dwelling types).

ZONE LOT: For purposes of this ordinance, a lot is a parcel of contiguous land which is or may be developed or utilized under one ownership as a unit site for a use or group of uses and which is of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street. Unless it constitutes a lot of record in which case it may front on a permanently dedicated easement.

For the purpose of this definition, the ownership of a zone lot shall be deemed to include a lease of not less than fifty-(50) years duration.

ZONING MAP: A map, or series of maps and special overlays (the official copy being maintained at the Smyrna Town Hall) showing districts and special districts that are established under the provisions of, and are thereby, a part of this Ordinance.

ZONING COMPLIANCE PERMIT: A written permit issued by the Zoning Administrator (the Smyrna Planning Director), or his designee same being required before commencing any construction, reconstruction, alteration of any building or other structure or before establishing, extending, or changing any activity or use on any zone lot.

2.030 Use Classification.

General Classification Rules

The purpose of these provisions is to classify uses into a number of specific categories based on their common functional characteristics and compatibility. This provides a basis for regulation of uses according to criteria that are relevant to the public interest in differentiating between zoning districts. A general statement appears with each broad use classification, which is intended to provide guidance as to what their common characteristics are. It is not intended that every use within a grouping should necessarily be permitted within a given zone district. Where specific uses within a particular use grouping are individually listed, only those particular uses are permitted. Where a use grouping is listed without further specification or limitation any and all uses within that grouping may be permitted.

2.031 Listing of Activity Classifications.

All activities are hereby classified into the following activity types:*

A. Residential Activities: Page Number

1. Permanent 31
2. Semi-Transient 32

B. Community Facilities Activities:

1. Government Administrative Services 33
2. Community Assembly 33
3. Community Education 34
4. Cultural and Recreational Services 34
5. Essential Service 34
6. Extensive Impact 35
7. Health Care 35
8. Intermediate Impact 36
9. Personal and Group Care Facilities 36
10. Religious Facilities 37
11. Special Institutional Care Facilities 37

C. Commercial Activities:

1. Animal Care and Veterinarian Services 38
2. Automotive Parking 38
3. Automotive Service and Repair 38
4. Building Materials and Farm Equipment 39
5. Consumer Repair Services 39
6. Construction Sales and Services 40
7. Convenience Commercial 40
8. Entertainment and Amusement Services 41
9. Financial, Consulting, and Administrative 41
10. Food and Beverage Service 42
11. Food Service - Take-Out 42
12. General Business and Communication Services 43
13. General Personal Service 44
14. General Retail Trade 44
15. Group Assembly 46
16. Professional Services-Medical 46
17. Professional Services-Non-Medical 47
18. Transient Habitation 47
19. Vehicular, Marine Craft, Aircraft, and Related Equipment Sales, Retail and Delivery 47
20. Warehousing, Goods, Transport and Storage 48
21. Wholesale Sales 48

D. Manufacturing Activities:

1. Limited	50
2. Intermediate	51
3. Extensive	52

E. Agricultural, Resource Production, and Extractive Activities:

1. Agricultural Services	52
2. Crop and Animal Raising	52
3. Commercial Feed Lots and Stockyards	53
4. Mining and Quarrying	53
5. Plant and Forest Nurseries	54

2.032 Accessory Uses.

In addition to the principal activities above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity. The accessory uses permitted are presented with the use regulation section of each district.

2.033 Classification of Combinations of Principal Activities.

The following rules shall apply where a single zone lot contains activities that resemble two or more different activity types and which are not classified as accessory activities.

1. Separate classification of each establishment

   The principal activities conducted on a single zone lot by each individual establishment, management, or institution shall be classified separately.

2. Separate classification of different major classes of activities conducted by a single establishment

   If the principal activities conducted by a single establishment, management, or institution resemble two or more different major classes of activities, to wit, Residential, Community Facilities, Trade, Services, Manufacturing, or Agricultural and Extractive Activities--the principal activities of each major class shall be classified separately.

3. Classification of different activities within the same major class, conducted by a single establishment

   If principal activities conducted on a single zone lot by a single establishment, management, or institution resemble two or more activity types within the same major class of activities, all such principal activities shall be classified in the activity types within

said class the description of which type most closely portrays the overall nature of such activities.

2.034 Residential Activities: Class and Type.

2.034.1 Activities Type - Permanent Residential Activities.

A. Intent and Limitations.

This grouping is intended to include permanent residential activities that involve the occupancy of a dwelling unit as defined by the Ordinance. This form of occupancy shall not be construed to include:

- Institutional living arrangements involving provisions of special care or forced residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or

- Semi-transient accommodations such as rooming houses and boarding houses, as well as multi-family dwelling complexes having more than thirty (30) percent of their living units occupied on less than a monthly basis; or

- Transient accommodations such as transient hotels, motels, tourist homes, or similar establishments; or

- Dormitories, nurses' residences, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations; or

- In a building with mixed use occupancy, that part of the building used for any nonresidential uses, excepting accessory to residential use.

B. Use Listing

The following dwelling unit types as defined by this Ordinance are generally considered as permanent residential activities when located within any district. (See definition of multi-family dwellings for possible exceptions). However, only those dwelling unit types as indicated by individual district regulations may be permitted therein.

- Dwelling, Single Detached
- Dwelling, Duplex
- Dwelling, Multi-Family
- Dwelling, Mobile Home
- Dwelling, Zero-Lot Line
- Dwelling, Accessory Apartment

2.034.2 Activity Type - Semi-Transient Residential Activities.

This grouping is intended to include residential activities that are semi-transient in nature and involve the occupancy of a rooming unit as defined by this Ordinance. This form of occupancy shall not be construed to include:

A. Intent and Limitations

Institutional living arrangements involving provisions of special care or forced residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or

B. Use Listing

The following rooming unit types are considered as semi-transient residential activities when they meet the general limitations for a rooming unit. However, only those rooming unit types as indicated within individual district regulations may be permitted therein.

- Boarding House
- Rooming House

2.035 Community Facilities Activities: Class and Type.

2.035.1 Activity Type - Government Administrative Services.

A. Intent and Limitations

This grouping is intended to include the activities typically performed by public, utility and private nonprofit administrative offices.

B. Use Listing

- City, County, State, and Federal Offices
- Civil Defense Facilities
- Court Buildings
- Fire Department Facilities
- Police Department Facilities
- Post Offices

2.035.2 Activity Type – Community Assembly.

A. Intent and Limitations

This grouping includes a broad range of facilities utilized as public gathering places in conjunction with various social and recreational events. This grouping is not intended to include facilities primarily utilized for profit, nor is it to include any facility that has the characteristics associated with extensive impact community facilities.

B. Use Listing

- Civic, Social, Fraternal, and Philanthropic
- Associations, Private (nonprofit) Clubs, Lodges,
- Meeting Halls (other than Labor Union Halls), and
- Recreation Centers Temporary Nonprofit Festivals.

2.035.3 Activity Type - Educational Facilities.

A. Intent and Limitations

This grouping is intended to include services and facilities typically performed by public, parochial, and primary and secondary schools. The grouping is not intended to include special training and schooling services offered by private individuals for profit, or by technical schools, colleges, and universities.

B. Use Listing

- Primary and secondary schools

2.035.4 Activity Type - Cultural and Recreational Services.

A. Intent and Limitations

This grouping is intended to include services and facilities of a cultural or recreational nature, which are either owned by, or operated for the use and enjoyment of, the general public. The grouping is not intended to include entertainment and amusement facilities, which are operated by private persons as profit making ventures.

B. Use Listing

- Art Galleries (Non-Commercial)
- Libraries
- Museums
- Parks, Playgrounds, and Athletic Fields

- Recreational Centers and Gymnasiums (Public Non-Profit)
- Swimming Pools and Beaches
- Yachting Clubs (Private)
- Zoological and Botanical Gardens (Non-Commercial)

2.035.5 Activity Type - Essential Public Transport, Communication, and Utility Services.

A. Intent and Limitations

This grouping is intended to include facilities necessary and incidental to the operation of transport, communication, and utility services. The grouping is not intended to include major transport terminals or utility production and processing facilities.

B. Use Listing

- Gas Substations
- Gas, Electric, and Water Distribution Lines
- Pumping Facilities for Water and Sewer Systems
- Rights-of-Way for all Modes of Transportation
- Sewage Collection Lines
- Telephone Switching Facilities

2.035.6 Activity Type - Extensive Impact Facilities.

A. Intent and Limitations

This grouping includes public activities and facilities that have a high degree of impact upon surrounding land use due to hazard and nuisance characteristics, traffic generation, and parking requirements.

B. Use Listing

- Airports, Air Cargo Terminals, Heliports, Helistops or any other Aeronautical Devices
- Detention or Correction Institutions
- Electricity Generating Facilities
- Garbage Dumps, including Sanitary Landfill
- Major Mail Processing Centers
- Major Petroleum and Natural Gas Transmissions Lines and Facilities
- Marine Terminals
- Motion Picture and Television Production Lots
- Railroad Terminals Railroad Yards and other Transportation Equipment, Marshalling and Storage Yards

2.035.7 Activity Type - Health Care Facilities.

A. Intent and Limitations

This grouping includes medical and other health care facilities that are required for promotion and protection of public health and safety. This grouping is not intended to include the offices, clinics, laboratories, etc., of private physicians or other health care professionals.

B. Use Listing

- Centers for Observation or Rehabilitation
- Convalescent Homes
- Hospitals
- Medical Clinics
- Medical Facilities

2.035.8 Activity Type - Intermediate Impact Facilities.

A. Intent and Limitations

This grouping is intended to include activities that have a significant effect upon surrounding land uses due to their traffic generation characteristics, parking requirements, land requirements, or potential nuisances and typically performed by, or the maintenance and operation of, the following institutions or installations.

B. Use Listing

- Cemeteries, Columbariums, Crematoriums, and Mausoleums
- Boat Docks, Marinas, and Yacht Clubs
- Golf Courses
- Radio, Telephone, and Television Towers and Transmission Facilities
- Water Storage Facilities
- Water and Sewerage Treatment Plants
- Electrical Substations

2.035.9 Activity Type - Special Personal and Group Care Facilities.

A. Intent and Limitations

This grouping is intended to include facilities for the care of very young and/or disabled persons who have need of special care and supervision. The grouping is not intended to include facilities primarily oriented to the provision of medical care or to the long-term

care or rehabilitation and medical patients nor is it to include facilities for delinquent minors, criminally dangerous, or psychotic.

B. Use Listing

- Associations for Physically or Mentally
- Handicapped Persons
- Day Care Centers
- Family Day Care Homes (Limited Child Care)
- Nursing Homes
- Retirement or Rest Homes
- Orphanages

2.035.10 Activity Type - Religious Facilities.

A. Intent and Limitations

This grouping is intended to include facilities utilized by various religious organizations for worship or community services functions. The grouping is not intended to include facilities that primarily function to produce products, including printed matter, for sale or general distribution to groups other than the immediate membership of the organization.

B. Use Listing

- Chapels
- Churches
- Convents or Monasteries
- Sanctuaries
- Synagogues
- Temples

2.035.11 Activity Type - Special Institutional Care Facilities.

A. Intent and Limitations

This grouping is intended to include facilities that involve forced residency, full time supervision and/or walk-in care for:

- Individuals legally confined due to violations of law;
- Individuals who are addicted to drugs and/or alcohol; and
- Individuals who are mentally ill, including the criminally dangerous.

B. Use Listing

- Detention and/or Correctional Institutions
- Drug and Alcohol Rehabilitation's Facilities
- Group Shelters
- Institutional Care facilities (including all types of asylums for the psychotic or insane)
- Substance Control Center (Serving recovering substance abusers)

2.036 Commercial Activities: Class and Type.

2.036.1 Activity Type - Animal Care and Veterinary Services.

A. Intent and Limitations

This grouping is intended to include the activities or facilities utilized by veterinarians in the care of small domestic pets. The grouping is not intended to include facilities or services for treatment of large farm animals.

B. Use Listing

- Veterinarian Clinics
- Kennels

2.036.2 Activity Type - Automotive Parking.

A. Intent and Limitations

This grouping is intended to include facilities for parking and/or storage of operative automotive vehicles. The grouping is not intended to include the storage of junk or scrap vehicles.

B. Use Listing

- Auto Parking Lots
- Parking Garages

2.036.3 Activity Type - Automotive Service and Repair.

A. Intent and Limitations

This grouping is intended to include establishments primarily engaged in furnishing auto repair services to the general public.

B. Use Listing

- Auto Glass Repair and Replacement Shops
- Auto Inspection and Diagnostic Services
- Auto Paint Shops
- Auto Towing Services
- Bus Maintenance and Repair Shops
- Car Washes and Automobile Detailing
- Radiator and Muffler Shops
- Tire Retreading and Repair Shops
- Wheel Alignment and Transmission Repair Shops

2.036.4 Activity Type - Building Materials and Farm Equipment Sales.

A. Intent and Limitations

These groupings includes firms engaged in the retail and wholesale sales and storage of materials used in the construction of buildings and other structures as well as the retail and wholesale sale and storage of implements, equipment, as well as feed and seed used in agricultural pursuits.

B. Use Listing

- Farm Equipment and Supplies
- Feed Milling and Sales
- Heating, Plumbing, and Electrical Supplies
- Lumber and Other Building Material Dealers
- Retail Nurseries, Lawn and Garden Supply Stores
- Seed Storage and Sales

2.036.5 Activity Type - Consumer Repair Services.

A. Intent and Limitations

This grouping is intended to include establishments primarily engaged in the repair of miscellaneous objects. The grouping does not include automobile repair of any type.

B. Use Listing

- Blacksmith Shops
- Electrical Repair Shops
- Gunsmith Shops
- Instrument Repair Shops
- Lawn Mower Repair Shops
- Locksmith Shops

- Office Equipment Cleaning and Repair
- Refrigeration and Air Conditioning Repair
- Reupholstery and Furniture Repair
- Saddlery Repair Shops
- Watch, Clock, and Jewelry Repair
- Welding Shops

2.036.6 Activity Type - Construction Sales and Services.

A. Intent and Limitations

This grouping includes the offices, buildings, and shops of various types of contractors as well as incidental on-site construction and storage.

B. Use Listing

- Builder's Hardware
- Carpentering Contractors
- Concrete Contractors
- Excavation Contractors
- General Building Contractors
- Glazing Building Contractors
- Highway and Street Construction Contractors
- Masonry, Stonework, Tile Setting, and Plastering Contractors
- Painting, Paper Hanging, and Decorating Services
- Plumbing, Heating, and Electrical Contractors
- Roofing and Sheet Metal Contractors

2.036.7 Activity Type - Convenience Commercial.

A. Intent and Limitations

This grouping is intended to include firms engaged in the retail sale, from the premises, of goods and services which are needed immediately and often and which are purchased where it is most convenient for the shopper; as well as the provision of personal convenience services which are typically needed frequently or recurrently.

B. Use Listing

- Bakeries
- Barber Shops
- Candy, Nut and Confectionery Stores
- Convenience markets where gasoline may be sold

- Dairy Products
- Drug Stores
- Fruit Stores
- Hardware Stores
- Health Spas
- Laundry, Cleaning and Garment Services
- Meat and Fish Markets
- News Stands
- Shoe Repair Shops
- Vegetable Markets

2.036.8 Activity Type - Entertainment and Amusement Services.

A. Intent and Limitations

This grouping is intended to include establishments engaged in providing amusement or entertainment on payment of a fee for admission charge.

B. Use Listing

- Art Galleries--Commercial
- Bowling Alleys and Billiard Parlors
- Coin Operated Amusement Arcades
- Commercial Recreation:
  - Golf Courses and Driving Ranges
  - Riding Stables
  - Skating Facilities
  - Swimming Pools and Beaches
  - Tennis Courts
  - Dance Halls
  - Exhibition Halls and Commercial Auditoriums
  - Gardens (Botanical and Zoological)
  - Marinas, Boat Docks, and Boat Rental
  - Motion Picture Theaters
  - Motion Picture Theaters-Drive-In
  - Recording and Television Production Studios
  - Theaters - Legitimate
  - Theatrical Producers, Bands, Orchestras, and Entertainers

2.036.9 Activity Type - Financial, Insurance, Real Estate, and Consultative Services.

A. Intent and Limitations

This grouping includes firms engaged in the provision of financial, insurance, and real estate brokerage services, as well as advice, designs, information, or consultations of a professional nature (other than those classified as Community Facility Activities, Medical and Professional Service, or Business and Communication Services).

These include the executive, management, or administrative activities of private, profit-oriented firms but exclude the sale and/or storage of goods or chattel unless otherwise permitted by this ordinance.

B. Use Listing

- Agricultural Credit Institution
- Banking and Bank-Related Functions
- Credit Unions
- Holding and Investment Organizations
- Installment Sales Finance Companies
- Insurance Sales and Services
- Money Management and Investment Offices
- Real Estate Brokers, Managers, and Appraisers
- Rediscount and Financing Institutions for Credit Agencies Other than Banks
- Savings and Loan Associations
- Securities Commodities, Brokers, Dealers, and Exchanges
- Title Offices
- Alternative Financial Services

2.036.10 Activity Type - Food and Beverage Service.

A. Intent and limitations

This grouping is intended to include retail establishment selling prepared foods and drinks to the general public primarily for consumption on the premises. The grouping is not intended to include food preparation facilities that are not open to the general public and are operated as a subordinate service for benefit of employees engaged in other activities.

B. Use Listing

- Cafes
- Cafeterias
- Restaurants
- Taverns

2.036.11 Activity Type - Food Service Take-Out.

A. Intent and Limitations

This grouping is intended to include establishments engaged in the retail sale of prepared food or beverages for either take out or on premises consumption either within the principal structure or within a vehicle parked on the same lot.

B. Use Listing

- Drive-In Restaurants
- Fast Food Restaurants

2.036.12 Activity Type - General Business Service.

A. Intent and Limitations

This grouping includes firms engaged in the provision of clerical, goods brokerage, communications, copying and blueprint services, custom printing (except books) but excludes the sale and/or storage of goods and chattel otherwise permitted by this ordinance.

B. Use Listing

- Advertising Agencies and Services
- Bail Bond Agency
- Bus and Transit Terminals for Passengers
- Commercial Cleaning Services
- Commercial Testing Laboratories
- Communication Services:
  - Radio and Television Broadcasting Studios
  - Telegraph Offices and Message Centers
  - Telephone Exchanges and Relay Towers
  - Television and Recording Production Studios
- Computer and Data Processing Services
- Credit Reporting, Adjustment, and Collection Agencies
- Detective Agencies and Protective Services
- Drafting Services
- Employment, Personnel, and Temporary Help Services
- Exterminating Services
- Interior Decorator and Consulting Services
- Mailing, Reproduction, and Commercial Art Services
- Management, Consulting, and Public Relations Services

- Membership Organizations:
  - Automobile Clubs

    - Better Business Bureaus
    - Chamber of Commerce
    - Labor Unions
    - Political Organizations
    - Professional Associations
    - News Syndicates
- Photofinishing Services
- Research and Development Laboratories
- Trading Stamp Services
- Travel Agencies
- Vehicular and Equipment Rental and Leasing Services

2.036.13 Activity Type - General Personal Services.

A. Intent and Limitations

This grouping includes firms engaged in the retail sales or rental from the premises, primarily for personal or household use, of goods and/or services but excluding goods and services listed in the other classifications herein.

B. Use Listing

- Funeral Services (Undertaking Services)
- Catering Services
- Clothing Repair and Rental
- Photographic Studios
- Hat Cleaning Shops
- Special Training and Schooling Services:
- Art and Music Schools
- Barber and Beauty Schools
- Dancing Schools
- Driving Schools
- Athletic Clubs

2.036.14 Activity Type - General Retail Trade.

A. Intent and Limitations

This grouping includes the retail sales or rental from the premises, primarily for personal or household use, of goods and/or services; but excluding goods and services listed under other activity types.

B. Use Listing

- Antique and Second Hand Merchandise Stores
- Automotive Parts (No exterior storage)
- Book and Stationery Stores
- Camera Stores
- Children's and Infant's Stores
- Department Stores
- Drapery, Curtain, and Upholstery Stores
- Family Clothing Stores
- Floor Covering Stores
- Florists
- Furniture Stores
- Furriers and Fur Shops
- Gift Shops
- Grocery Stores
- Hardware Stores
- Hobby, Toy, and Game Stores
- Household Appliance Stores
- Jewelry Stores
- Luggage Shops
- Men's and Boy's Clothing and Furnishing Stores
- Miscellaneous Apparel and Accessory Stores:
    - Bathing Suit Stores
    - Custom Tailors
    - Shirt Shops
    - Sports Apparel Stores
- Uniform Stores
- Miscellaneous General Merchandise Stores:
    - Direct Selling Organizations
    - Mail Order Houses
- Miscellaneous Home Furnishings Stores:
    - Bedding and Linen Stores
    - Cookware Stores
    - Cutlery Stores
    - Glassware and China Shops
    - Lamp and Shade Shops
    - Paint and Wallpaper Stores
- Music Stores
- News Stands
- Proprietary Stores
- Radio and Television Stores
- Sewing and Piece Goods Stores
- Shoe Stores
- Sporting Goods Stores

- Variety Stores
- Women's Accessory and Specialty Stores
- Women's Ready-to-Wear Store

2.036.15 Activity Type - Group Assembly.

A. Intent and Limitations

This grouping includes the provision of cultural, entertainment, educational, and athletic services, other than those classified as Community Facilities, to large groups of assembled spectators and/or participants (500 or more) or that have a substantial potential impact upon adjoining property.

B. Use Listing

- Amusement Parks and Fairgrounds
- Commercial Camp Grounds
- Commercial Resorts
- Commercial Sports Arenas and Playing Fields
- Race Tracks (Auto, Motorcycle, Dog, and Horse)
- Schools for Profit
- Colleges and Universities
- Technical and Trade Schools
- Drag Strips

2.036.16 Activity Type - Professional Services - Medical.

A. Intent and Limitations

This grouping is intended to include establishments primarily engaged in providing medical, dental, and other health services to individuals. The grouping does not include services provided at general care facilities located within Community Facilities Health Care.

B. Use Listing

- Chiropractors Offices
- Dental Offices and Laboratories
- Medical Laboratories
- Optometrists
- Physicians' Offices and Clinics (Out Patient Services)
- Psychologists and Psychotherapists

2.036.17 Activity Type - Professional Services - Non Medical.

A. Intent and limitations

This grouping is intended to include a broad listing of generally recognized professions, other than medicine, which are compatible with one another and tend to exert similar impacts upon their surroundings.

B. Use Listing

- Accounting, Auditing, and Bookkeeping Services
- Artists' Studios
- Attorneys and Law Offices
- Consulting Scientists
- Educational and Scientific Research Services
- Engineering and Architectural Services
- Songwriters and Music Arrangers
- Urban Planning Services
- Writers and Lecturers

2.036.18 Activity Type - Transient Habitation.

A. Intent and Limitations

This grouping is intended to include commercial and institutional establishments engaged in furnishing lodging, or lodging and meals on a fee basis.

B. Use Listing

- Hotels, Motels
- Tourist Homes or Courts
- Sporting and Recreational Vehicle Camps (Commercial Camp Grounds)
- Bed and Breakfast

2.036.19 Activity Type - Vehicular, Marine Craft, Aircraft and Related Equipment Sales, Rental and Delivery.

A. Intent and Limitations

This grouping is intended to include the retail dealers selling new or used automobiles, boats, aircraft, recreational vehicles, utility trailers and motorcycles. Repair Shops and Parts Sales Facilities are to be included, along with Gasoline Service Stations.

The grouping is not intended to include automotive distributors, from which the greater part of wholesales are to dealers or to institutional or industrial users (See Wholesale Trade-Durable Goods).

B. Use Listing

- Aircraft Dealers
- Auto and Home Supply Stores
- Boat Dealers
- Gasoline Service Stations
- Motor Vehicle Dealers (New and Used)
- Motorcycle Dealers
- Recreational and Utility Trailer Dealers

2.036.20 Activity Type - Warehousing, Goods Transport, and Storage.

A. Intent and Limitations

This grouping is intended to include establishments and facilities associated with the warehousing, storage, and transport of goods. Due to the very close relationship between these uses and manufacturing activity and to the extensive impact of the truck traffic, etc., associated with these uses, they are included within this grouping even though certain aspects of these uses are closely aligned with wholesale trade activity.

B. Use Listing

- Freight Forwarders
- General Warehousing
- Household Goods Storage (including, but not limited to, mini-warehouses, self-storage facilities, and convenience storage)
- Local and Long Distance Trucking Terminals
- Packing and Crating Services
- Refrigerated Warehousing
- Truck Terminals and Freight Handling
- Solid Waste Services

2.036.21 Activity Type - Wholesale Sales.

A. Intent and Limitations

This grouping includes the storage and sale from the premises of goods to other firms for resale, as well as the storage of goods and their transfer to retail outlets' but excludes sale or storage of motor vehicles, except for parts and accessories.

B. Use Listing

- Apparel, Piece Goods, and Notions
- Beer, Wine and Distilled Alcoholic Beverages
- Chemicals and Allied Products
- Drugs, Drug Proprietaries, and Sundries
- Electrical Goods and Appliances
- Farm Products, Raw Materials
- Farm Supplies
- Furniture and Home Furnishings
- Groceries and Related Products
- Hardware, Plumbing, and Heating Equipment and Supplies
- Lumber and Other Construction Materials
- Machinery, Equipment, and Supplies
- Metals and Minerals
- Motor Vehicle and Automotive Parts and Supplies
- Paints, Varnishes, and Supplies
- Paper and Paper Products
- Petroleum and Petroleum Products
- Sporting, Recreational, Photographic, and Hobby Goods
- Tobacco and Tobacco Products
- Toys and Supplies

2.036.22 Activity Type – Retail Sales of Alcoholic Beverages.

A. Intent and Limitations

This grouping includes the retail sales from the premises, primarily for personal or household use, of alcoholic beverages.

B. Use Listing

- Package Liquor Stores
- Beer Stores

2.036.23 Activity Type – Retail Sales of Tobacco, Vape and Cannabinoid.

A. Intent and Limitations

This grouping includes the storage and retail sales from the premise or on-site consumption, primarily for personal use, of tobacco products, electronic smoking devices and/or products derived from the *Cannabis sativa L.* plant as well as associated paraphernalia, delivery devices, components, and liquids.

B. Use Listing

- Cigar and Tobacco Shops
- Vape/E-Cigarette Lounges or Retailers
- Cannabinoid Retailers (Non-Medical)
- Hookah/Water Pipe Lounges or Retailers
- Head Shops/Paraphernalia Retail

2.037 Industrial Activities: Class and Type.

2.037.1 Activity Type - Manufacturing - Limited.

A. Intent and Limitations

This grouping is intended to include manufacturing operations that involve the compounding, processing, assembling, packaging, treatment or fabrication of materials necessary to create the following products:

- Apparel accessories, such as hats, jewelry, and umbrellas
- Art Objects
- Bakery Goods
- Beverages (nonalcoholic)
- Dairy Products
- Instruments for Scientific, Medical, Dental,
- Engineering, and Other Professional Purposes
- Optical Instruments and Lens
- Printed Matter
- Signs

All activities and operations within this grouping shall in all respects comply on a continuous basis with the performance standards applicable within the I-1 and I-2 (Light Industrial District).

B. Use Listing

In addition to the manufacturing of the above products, the following activities and operations are held to that is limited manufacturing activity:

- Book Binding
- Data Processing Service
- Photocopying
- Photoengraving
- Precision Machining of Dies, Jigs, and Fixtures

- Printing
- Publishing
- Record Pressing
- Upholstering

2.037.2 Activity Type - Manufacturing - Intermediate.

A. Intent and Limitations

This grouping is intended to include a broad range of manufacturing operations. All activities and operations within this grouping shall in all respects comply on a continuous basis with the performance standards applicable within any Industrial District. The grouping includes the manufacture, compounding, assembling, packaging, treatment, or fabrication or various products, except the following:

- Cotton Seed Oil
- Explosives
- Fireworks
- Organic Fertilizers

B. Use Listing

Subject to the general intent and limitations set out above for this type of manufacturing use grouping all types or variations of manufacturing activities and operations excepting the following shall be considered intermediate manufacturing.

- Abrasive, Asbestos, and Non-metallic Mineral Processing
- Asphaltic Cement Plants
- Atomic Reactors
- Automobile Wrecking Yards
- Cement and/or Concrete Plants
- Chemical Manufacturing in excess of 1 ton per day
- Cotton Ginning
- Fat Rendering
- Foundries
- Grain Milling
- Junk Yards
- Offal Processing
- Lumber and Wood Products Manufacturing
- Meat Products Manufacturing
- Dyeing and Finishing of Textiles
- Primary Metal Industries
- Ordinance and Accessories Manufacturing
- Automotive, Truck, and Vehicle Assembly

- Manufacturing

2.037.3 Activity Type - Manufacturing - Extensive.

A. Intent and Limitations

This grouping is intended to include all intermediate manufacturing activities (Described in A and B above) and the exceptions listed above for that grouping, except the use listed below in B.

B. Use Listing

The following activities are held to not fall within the general definition of extensive manufacturing activities.*

- Arsenals
- Atomic Reactors
- Explosives Manufacturing and Storage
- Fireworks Manufacturing
- Radioactive Waste Handling
- Solid Waste Disposal (Landfill)

2.038 Agricultural and Extractive Activities: Class and Type.

2.038.1 Activity Type - Agricultural Activities.

A. Intent and Limitations

This grouping is intended to include a variety of service functions that are directly linked to the agricultural activities which these functions support.

B. Use Listing

- Crop Drying, Storage, and Processing Services
- Crop Planting, Cultivating, and Protection Services
- Horticultural Services
- Soil Preparation Services
- Veterinary Services for Livestock

2.038.2 Activity Type - Crop and Animal Raising.

A. Intent and Limitations

This grouping is intended to include the raising of tree, vine, field, forage, and other plant crops intended to provide food or fiber, as well as keeping, grazing, or feeding animals for animal products, animal increase, or value increase, but specifically excluding commercial feed lots and facilities for the processing, packaging, or treatment of agricultural products.

B. Use Listing

- Dairies
- Farms
- Raising of Plants, Animals, and Fish
- Truck Gardens

2.038.3 Activity Type - Feed Lots and Stockyards.

A. Intent and Limitations

This grouping is intended to include facilities and operations involved in the storage and feeding (other than pasture grazing) of animals for resale or slaughter.

B. Use Listing

- Feed Lots
- Stockyards

2.038.4 Activity Type - Mining and Quarrying.

A. Intent and Limitations

This grouping is intended to include operations and facilities either utilized by, or in support of the extraction of minerals, ores, petroleum, and natural gas or in the quarrying and collection of stone, said, and gravel, clay, and other non-metallic minerals (such as phosphate rock).

B. Use Listing

- Chemical Fertilizer and Non-metallic Mineral Mining
- Clay, Ceramic, and Refractory Minerals
- Coal Mining
- Crude Petroleum and Natural Gas Production and Field
- Metal Ore and Mineral Mining
- Sand and Gravel Quarrying
- Stone Quarrying

2.038.5 Activity Type - Plant and Forest Nurseries.

A. Intent and Limitations

This grouping is intended to include the cultivation for sale of horticultural specialties, such as flowers, shrubs, and trees intended for ornamental, landscaping, or tree planting purposes.

B. Use Listing

- Forest Nursery
- Plant Nursery

ARTICLE III - GENERAL PROVISIONS

SECTION

3.010 - Scope
3.020 - Only one (1) principal structure on any residential lot
3.030 - Lot must abut a public street or dedicated easement
3.040 - Rear yard abutting a public street
3.050 - Corner lots
3.060 - Future street lines
3.070 - Reduction in lot area prohibited
3.080 - Obstruction to vision at street intersection prohibited
3.090 - Access control
3.100 - Accessory use regulations
3.110 - Buffer strips
3.120 - Site plan requirements
3.130 - Solar orientation
3.140 - Antennas and satellite (TV) dishes
3.150 - Landscape treatment regulations
3.160 - Minimum design standards for transmission and communications towers and stations
3.170 - Sidewalks
3.180 - Fences
3.190 - Outside display and outside storage
3.200 - Traffic Impact Studies
3.210 - All portions of a building or structure must be located within the boundaries of a parcel

3.010 Scope.

For the purpose of the zoning ordinance, there shall be certain general provisions that shall apply, except as specifically noted, to the Town as a whole.

3.020 Only one (1) principal structure on any residential lot.

Only one (1) principal structure and its customary accessory building or structure may hereafter be erected on any residential lot. This provision does not prohibit planned development complexes as permitted under Article IV, Section 4.070 of this ordinance, multi-family dwellings, or mobile home parks.

3.030 Lot must abut a public street or dedicated easement.

No building shall be erected on a lot which does not abut at least one (1) publicly approved and accepted street for a distance of at least thirty (30) feet, unless it abuts for at least thirty (30) feet on a street that has been shown on a final subdivision plat as approved by the Smyrna Municipal Planning Commission, or unless said lots abuts for at least fifty (50) feet on a permanently dedicated easement according to the following standards:

(1) Such easement shall be at least fifty (50) feet in width, and shall not be used to provide access to more than one (1) lot or tract of land.

(2) No access to any lot fronting a public street shall be utilized as access to any other lot not having public street frontage by way of a publicly dedicated easement.

(3) No easement shall exceed seven hundred (700) feet in length.

(4) Driveway on easement shall be constructed to minimize erosion or rapid deterioration.

(5) The topography of the easement shall be kept to a minimum and must be able to provide true access to the property.

(6) Maintenance of the easement shall be the responsibility of the property owner(s).

(7) All required utility easements shall be located outside the fifty (50) foot roadway easement.

(8) Any further subdividing on the easement shall require the development or building of a public road and meet all road standards and other requirements as stated in the Subdivision Regulations of Smyrna, Tennessee.

The above standards shall not be construed to prohibit the development of buildings on lots or tracts with permanent access provided by private ways when such development is in the form of condominium ownership of such private improvements which have been approved by the Planning Commission and will be in private ownership and control in perpetuity.

3.040 Rear yard abutting a public street.

When the rear yard of a lot abuts a public street, all structures built in the rear yard shall observe the same setback from the street right-of-way line, center line of the street, or property line, as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

3.050 Corner lots.

The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces.

3.060 Future Street lines.

For the purpose of providing adequate space for the future widening of streets, required setbacks, or front yards shall be determined by the right-of-way as shown in the most current official Smyrna, Tennessee Major Thoroughfare Plan Map.

3.070 Reduction in lot area prohibited.

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of the Zoning Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

3.080 Obstruction to vision at street intersections and railroad intersections prohibited.

On a corner lot in any district except the Central Business District within the area formed by the center lines of the intersecting or intercepting streets and/or railroads and a line joining points on such center lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to vision between the height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each street and/or railroad at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

3.090 Access control.

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact the following regulations shall apply:

A. A point of access for vehicles onto a street shall not exceed thirty (30) feet in width for all residential, retail and commercial services land uses. If such a point of access serves two or more lots, then the point of access may be increased to a total of thirty-six (36) feet in width. All points of access shall be so constructed as to provide for proper drainage of property and public street. A minimum of a fifteen- (15) inch culvert shall be provided in the ditch line. For industrial land uses a point of access for vehicles onto a street shall not exceed forty-five (45) feet in width.

B. There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof, provided, however, that lots less than one hundred (100) feet in width shall have no more than one point of access to any one public street.

C. No point of access shall be allowed within twenty-five (25) feet of the right-of-way line of any public intersection. On collectors or arterial this minimum shall be forty (40) feet.

D. No curbs on Town streets or right-of-way shall be cut or altered without written approval of the Smyrna Street Superintendent, and if a state highway, a permit must also be obtained from the Tennessee Department of Transportation.

E. Where two driveways are provided for one lot frontage, the clear distance between the driveways shall not be less than twenty-five (25) feet.

F. Cases requiring variances relative to the above provisions due to topographic limitations shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangement would require that vehicles back directly onto a public street.

3.100 Accessory use regulations.

The use of land, buildings, and other structures permitted in each of the districts established by this ordinance are designed by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district subject to the following conditions:

Each accessory use shall:

A. Be customarily incidental to the principal use established on the same zone lot.

B. Be subordinate to and serve such principal use.

C. Be subordinate in area, intent, and purpose to such principal use.

D. Contribute to the comfort, convenience, or necessity of users of such principal use.

E. Detached accessory structures are allowed in residential districts as follows, whether for one structure or multiple structures:

1. For purposes of the square footage calculations listed in the table below, the total aggregate floor area of the structure shall be included. In the cases of a structure with more than one floor as defined by the Building Code, every level (above or below grade) shall be counted individually toward the total calculation.

2. The peak of any detached accessory structure shall not exceed the maximum peak roof height of the principal structure or the maximum height as listed in the table below, whichever is more restrictive. In the event the principal structure is a single story, the detached structure may exceed the height of the principal structure, but shall not exceed 18 feet to the peak of the roof.

3. Total combined gross floor area of all detached accessory structures shall not exceed the total gross floor area of the principal structure (inclusive of all floors).

4. The area occupied by all buildings, including accessory structures, shall not exceed 30% or 35% of the total area of a parcel in accordance with the table below.

Lot Size	Maximum Square Footage	Maximum Height
< 10,000 Square Feet	600 Square Feet *	20 Feet ***
10,001 - 14,999 Sq. Ft.	800 Square Feet **	20 Feet ***
15,000 Sq. Ft. - 0.49 Ac	1,200 Square Feet **	20 Feet ***
0.5 Acre - 1.99 Acres	1,500 Square Feet **	25 Feet ***
2 Acres - 4.99 Acres	2,500 Square Feet **	30 Feet ***
> 5 Acres	3,500 Square Feet **	35 Feet ***
Agriculture Use	Exempt	Exempt
The total square footage of all levels of every detached accessory structure on the lot must be less than or equal to the total square footage of the main house.		
* The area occupied by all buildings, including accessory structures, shall not exceed 30% of the total area of the parcel. ** The area occupied by all buildings, including accessory structures, shall not exceed 35% of the total area of a parcel.		

Where the lot coverage requirements of this section conflict with those found elsewhere in the Zoning Ordinance, the more restrictive provision shall apply.
*** Structures shall not exceed the maximum peak roof height of the principal structure or the maximum height in this table, whichever is more restrictive. In the event the principal structure is a single story, the detached structure may exceed the height of the principal structure, but shall not exceed 18 feet to the peak of the roof.

F. Detached accessory structures are allowed in commercial and industrial districts up to ten (10) percent of the total square footage of the principal structure not to exceed 5,000 square feet in size.

G. Detached agricultural accessory structures of any size are allowed in conjunction with agricultural uses as defined in Article II on parcels of land at least fifteen (15) acres in size in the appropriate zoning districts as allowed by this Ordinance. Agricultural accessory structures must be setback a minimum of ten (10) feet from any side or rear property line and be located behind the principal structure. For this provision to be applicable for a parcel, it must be under the Greenbelt designation as stipulated by Tennessee Code Annotated 67-5-1001 through 1050 as administered by the Tennessee Comptroller of the Treasury.

3.110 Buffer strip.

A buffer strip shall be required to be installed per the chart titled "Buffer Strip Requirements". For purposes of this chart, the four types of buffers are detailed below:

- *Type A:*
  A Type A buffer shall be at least ten (10) feet wide and be composed of one (1) row of evergreen trees, spaced not more than twenty (20) feet apart, which shall be at least six (6) feet tall when planted, and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

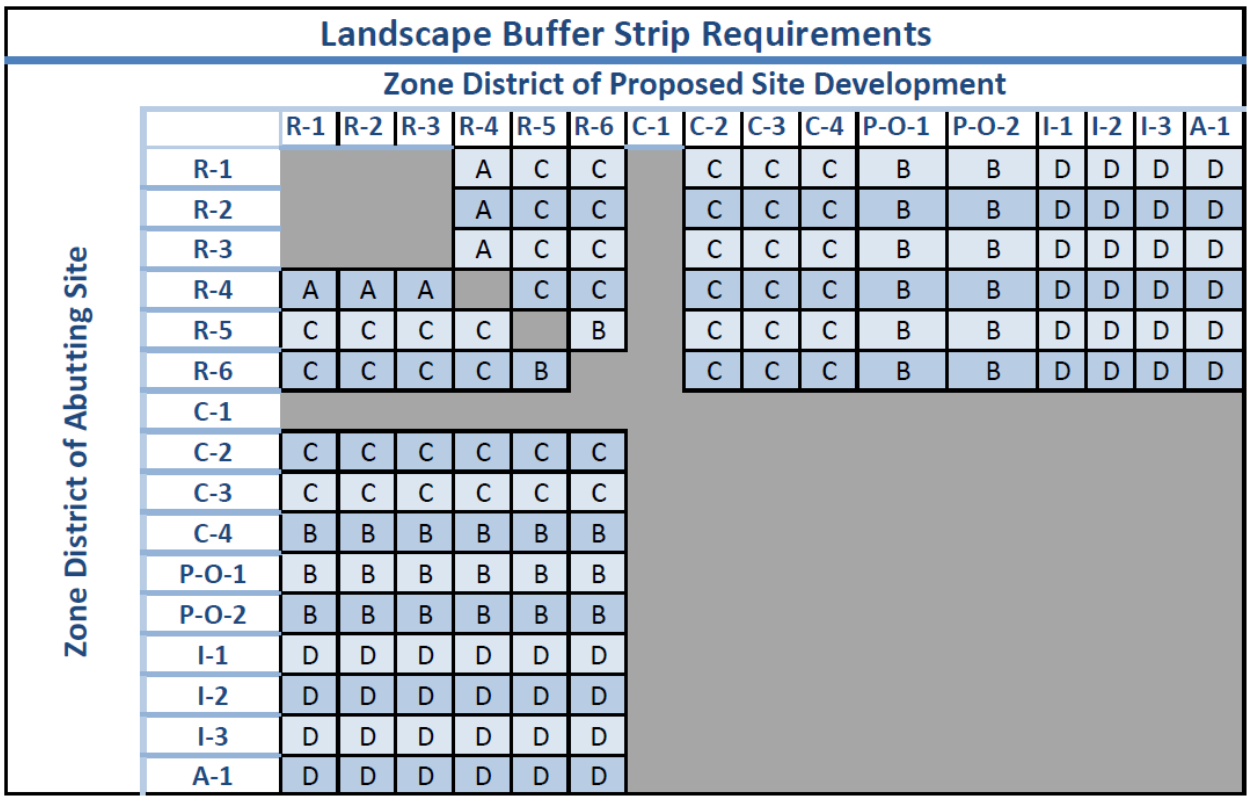
- *Type B:*
  A Type B buffer shall be at least twelve (12) feet wide and be composed of a mix of evergreen trees and deciduous trees spaced no more than ten (10) feet apart, which shall be at least six (6) feet tall when planted, supplemented with shrubs or hedges spaced not

more than five (5) feet apart when planted and which grow to a height of five (5) feet or more after one (1) full growing season.

- *Type C:*
  A Type C buffer shall be at least fifteen (15) feet wide and be composed of two (2) rows of evergreen trees spaced not more than fifteen (15) feet apart and alternating so that the trees are offset, which shall be at least six (6) feet tall when planted, supplemented with shrubs or hedges spaced not more than three (3) feet apart when planted and which grow to a height of five (5) feet or more after one (1) full growing season.

- *Type D:*
  A Type D buffer shall be at least twenty (20) feet wide with a berm at least four (4) feet high and five (5) feet wide at the top. Landscaping on top of the berm shall be similar to a Type C buffer.

In addition to these buffer strip requirements, when deemed necessary by the Planning Commission there shall also be installed a six (6) feet tall fence of such material as deemed acceptable by the Planning Commission along the entire length of any required buffer strip. The Planning Commission shall also have the authority to allow for existing fencing or vegetation to be used as all or part of a required buffer strip, and to require a different type of buffer strip than required per the chart when deemed necessary. When an allowed nonresidential use is constructed within a residential district, a Type A buffer shall be required.



Landscape Buffer Strip Requirements

Zone District of Abutting Site \ Zone District of Proposed Site Development	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	C-3	C-4	P-O-1	P-O-2	I-1	I-2	I-3	A-1
R-1				A	C	C		C	C	C	B	B	D	D	D	D
R-2				A	C	C		C	C	C	B	B	D	D	D	D
R-3				A	C	C		C	C	C	B	B	D	D	D	D
R-4	A	A	A		C	C		C	C	C	B	B	D	D	D	D
R-5	C	C	C	C		B		C	C	C	B	B	D	D	D	D
R-6	C	C	C	C	B			C	C	C	B	B	D	D	D	D
C-1																
C-2	C	C	C	C	C	C										
C-3	C	C	C	C	C	C										
C-4	B	B	B	B	B	B										
P-O-1	B	B	B	B	B	B										
P-O-2	B	B	B	B	B	B										
I-1	D	D	D	D	D	D										
I-2	D	D	D	D	D	D										
I-3	D	D	D	D	D	D										
A-1	D	D	D	D	D	D										

3.120 <u>Site Plans</u>.

A.

1. Proposals Requiring Site Plan Approval: Any proposal for the construction or location of one (1) or more principal structure on a lot (with the exception of single-family and two-family dwellings in single ownership) requires site plan approval.

2. Submittal Deadline: Complete site plans shall be submitted to the Town Planner at least 24 days prior to the Planning Commission meeting, if said submittal is to be officially entertained by the Planning Commission at the next regularly scheduled meeting thereof.

3. Specifications: Site plan submittals shall not be considered complete unless the following elements have been included or addressed:

   (1) Scale shall be no smaller than one (1) inch to fifty (50) feet;

   (2) Plans shall not be larger than 24 inches by 36 inches (E size);

(3) Contours shall be shown at two (2) feet intervals;

(4) Required parking (including handicapped spaces) and loading/unloading spaces;

(5) Graphic cross-section of any on-site paving required;

(6) Location of existing and proposed fire hydrants, servicing utilities, with reference to location, availability, and compatibility;

(7) Maneuvering area;

(8) Openings for ingress/egress to public streets;

(9) Location of the centerline, right(s)-of-way, and edge of pavement of existing public streets as well as the location of existing curbing when applicable;

(10) Sidewalks, if required (See Section 3.170);

(11) Total square footage of all on-site impervious surfaces (including buildings, parking lots, driveways, sidewalks, and roads) and total square footage of all vehicular use area (including parking lots, driveway, and roads);

(12) Landscape Treatment Plan (see Section 3.150 or the Design Review Manual, whichever is applicable);

(13) Storm water drainage calculations and a proposed drainage plan designed to meet the following:

Storm water detention design and calculations shall provide adequate detention volume and freeboard within the detention basin for both the 0.5 inch first flush volume and the 25-year storm frequency volume, based on the post development runoff rates. The detention basin calculations shall include the study of routing a 50-year storm frequency through an emergency overflow or by other means as to ensure flooding of the adjacent structures and properties does not occur. The detention basin discharge structure shall be designed as to regulate the post-development runoff rate based on the 2-, 5-, 10-, and 25-year storm frequencies by means of a circular orifice, a non-circular orifice, a rectangular weir, a trapezoidal

weir, a triangular weir, a "V"-notch weir, culvert entrance control structure, or riser overflow opening. The post-development discharge rate for the 2-, 5-, 10-, and 25-year storm frequencies shall not exceed the pre-development runoff rates. The detention basin design and calculations shall also include any offsite drainage areas contributing to the collected runoff of the proposed development site, if routed through the detention basin. All components of the detention basin design shall also be in accordance with the Town of Smyrna's National Pollution Discharge Elimination System (NPDES) General Permit Application for Municipal Separate Storm Sewer System (MS4) Phase II Program and the Town of Smyrna's Dry Detention Basin Policy.

(14) Density of the development (dwelling units per acre) or required open space;

(15) Number of stories (all residential and commercial structures three (3) or more stories in height require plans approval by the State Fire Marshall's office);

(16) Required building setbacks and other yard requirements;

(17) Location map showing the relationship of the proposal to scale to other developments, land uses, and streets;

(18) Architectural elevations with materials identified (See Design Review Manual);

(19) Grading/excavation plans showing all specifics including location, size, materials, cut and fill amounts, etc.; and

(20) Additional requirements for Planned Developments (See Section 4.070) and Multi-Family Developments (See Section 4.171).

4. Site Plans Requiring Staff Review Only:

The following types of proposals shall require that site plans be submitted to the specifications and time frames enumerated in Subsections A.2 and A.3 above and approved by the Town staff rather than by the Planning Commission:

1. Site improvements or building additions that meet all of the following criteria:

   (1) Involve 10% or less in scope and area of the previously approved site plan (existing development on the zone lot);

   (2) Do not exceed 5,000 square feet of building area;

   (3) Do not exceed one such addition in any twelve (12) month period;

   (4) Conform to the provisions of the land use plan as well as provisions of this ordinance;

   (5) Do not constitute any threat to the public welfare, and are not injurious to the property values within the vicinity or community; and

   (6) Do not require the Town staff to decide any major developmental policy issues.

2. Change in use from one classification to a different classification as defined in Section 2.030 of this ordinance.

B. Additional Submittal Requirements. The above applications must be supported by any other information or data as might be deemed necessary by the Smyrna Municipal Planning Commission, such as architectural renderings, perspective illustration of proposed developments, etc.

C. Planned Developments and Mobile Home Parks. Proposals for planned developments and mobile home parks shall follow separate provisions outlined in Article IV, Section 4.070 and 4.090 in this ordinance.

D. All site plans shall be prepared and stamped by an individual licensed and certified by the State of Tennessee to perform such design service as is required above.

E. Letters of credit for site plans shall be provided according to the following provisions:

1. All site plans presented for review and approval to the Smyrna Municipal Planning Commission shall present the Planning Commission with a document indicating intent to file a letter of credit for improvements shown on the site in the amount of one hundred and twenty (120) percent of cost of said improvements. Such document shall

be approved by the Town Engineer, or other specified Town employee. It shall specify the amount of such letter of credit by specific type of on and or off-site improvements required, i.e., drainage requirements, landscaping, paving, utilities, etc.

2. Said improvements shown on the site plan may include, but are not limited to, existing road improvements, buffer strips, proposed road construction, parking aisles, parking spaces, driveways, sewer and water extensions or connections, tiles, culverts, drainage ways including catch basins, or any other improvements required by the Planning Commission before the site plan is approved.

3. A letter of credit authorized by the Planning Commission shall be secured by either an irrevocable letter of credit or cashier's check. The beneficiary of the surety shall be the Town of Smyrna. Such letter of credit shall comply with all statutory requirements and shall be satisfactory to the Town Attorney as to form, sufficiency, and manner of execution. Accordingly, such letter of credit must be officially filed and approved on the appropriate form within Appendix B of the Town of Smyrna Subdivision Regulations. Moreover, only commercial banks and federally chartered savings and loan associations located in the Rutherford or Davidson County, Tennessee, shall be acceptable institutions for the issuance of a letters of credit as required for the purposes of these regulations.

4. The letter of credit must be retained for a period of one year from the issuance of the certificate of occupancy wherein such surety instrument shall be provided, in order to facilitate the improvements depicted on the approved site plan. If improvements have been made within the (1) one-year period, Town Council may release the bond after the inspection of all required improvements, and approval of those improvements by the Planning Commission, or its authorized representative, the Town Engineer. If improvements have not been installed in a satisfactory manner, the Town Council of the Town of Smyrna shall retain and cash the letter of credit to facilitate the completion of such improvements.

F. Expiration: The approval of any site plan granted under the provisions of this section (Section 3.120) shall become expired in any situation wherein a building permit has not been officially obtained, under the provisions of Section 7.030 of this ordinance, within (3) three years of the official approval of said site plan (the date wherein the Planning Commission approved said site plan). Any application for a building permit for any land use depicted on an approved site plan which is made beyond (3) three years after the approval of such site plan shall be denied and no such permit shall be granted until a new

site plan is prepared and approved by the Planning Commission under all the terms established within Section 3.120 of this ordinance. Any such resubmittal shall be stamped by the preparing professional utilizing the current date.

3.130 Solar orientation.

Solar orientation devices shall be subject to the required yard setbacks and other requirements affecting accessory uses and/or structures. The use of solar/energy devices for the purpose of providing energy is a permitted use within all zones, either as a part of the structure, or an independent structure. In order to maximize solar access, whenever possible the development should place highest densities on south facing slopes. Furthermore, all streets should be oriented on an east/west axis to the greatest possible extent in order that all lots are oriented with their greatest dimension on a north/south axis. Whenever possible, lot orientation from the north/south axis should vary no more than twenty (20) degrees from the north/south axis. There shall be no solar device within any portion of the required front yard.

3.140 Antennas and satellite (TV) dishes.

For the purposes of this ordinance all radio and television antennas shall be construed as accessory uses and/or structures, and shall thereby be subject to the required yard setbacks, as well as the other requirements cited within SECTION 3.100 of this ordinance.

3.150 Landscape Treatment Regulations.

A. Purpose and Intent. The purpose and intent of this section is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade, and enhancing the blighted appearance of parking lots.

B. Applicability. The provisions of this section shall apply to all developments within the Town of Smyrna as follows:

1. New Sites

No new site development, building or structure shall hereafter be constructed which involves the creation or utilization of any vehicular use area unless landscaping as required by the provisions of this section is provided.

2. Change of Use

No use shall be changed to another use for which the zoning ordinance requires additional parking over and above that required for the previous use, unless vehicular use area landscaping as required by this section is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the expanded parking requirements for the new uses.

C. Definitions. All plant materials utilized under the provisions of this section shall be living plants (artificial plants are prohibited) and shall fall under the scope of the following definitions:

- QUALITY - Plant materials used in conformance with the provisions of this ordinance shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. Bare root plants; with exception of shrubs and hedges, vines and ground covers shall be prohibited.

- DECIDUOUS TREES (Trees which normally shed their leaves in the fall) - Shall be species having an average mature crown spread of greater than fifteen (15) feet, and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen-(15) foot crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured six (6) inches above the ground for trees up to four (4) inches caliper) of at least one and three fourths (1 3/4) inches immediately after planting shall be required.

  Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five (5) feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete.

- EVERGREEN TREES - Evergreen trees shall be a minimum of six (6) feet high.

- SHRUBS AND HEDGES - Shrubs and hedges shall be at least two (2) feet in average height with three (3) canes when installed. All plants shall conform to opacity, mature height, and other requirements within four (4) years after the date of final approval of each planting or replanting. Privet, ligustrum species cannot meet the opacity

requirements and may not be used to satisfy the requirement of this section. The height of the planting shall be measured from the level of the vehicular use area at the edge closest to the screening.

- VINES - Vines shall be at least twelve (12) inches high at planting, and are to be generally used in conjunction with walls or fences.

- GRASS OR GROUND COVER - Grass of the fescus (Festuca) or Bluegrass (Poaceae) family shall be planted in species normally grown in Smyrna as permanent lawns, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted in such a manner as to present a finished appearance and have seventy-five (75) percent of complete coverage after two (2) complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar materials, if approved by the Planning Commission, or the Board of Zoning Appeals wherever additional parking is required by any application for a special exception.

D. Existing Landscaping Material

Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the enforcing officer such material meets the requirements and achieves the objectives of this article. Existing healthy trees may be substituted for trees required for vehicular use property or for interior landscaping by using the following criteria: a six (6) inch to twelve (12) inch caliper tree surrounded by a minimum of one hundred fifty (150) square feet of landscape area may be substituted for two (2) new trees of the required minimum size; a twelve (12) inch to twenty-four (24) inch caliper tree surrounded by a minimum of two hundred fifty (250) square feet of landscape area may be substituted for three (3) new trees of the required minimum size; a twenty-four (24) inch or greater caliper tree surrounded by a minimum of three hundred (300) square feet of landscape area may be substituted for four (4) trees of the required minimum size.

E. Minimum and Maximum Area Standards

The following general and specific area standards shall be met:

1. General Standard

For each one hundred (100) square feet, or portion thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided.

2. Specific Standards

   a. Area
   The minimum individual landscaped area permitted shall be sixty-four (64) square feet, with a four (4) foot minimum dimension to all trees from the edge of the pavement. In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than three hundred-fifty (350) square feet in vehicular use areas under thirty thousand (30,000) square feet in size, and no required area shall be larger than fifteen hundred (1,500) square feet in vehicular use areas over thirty thousand (30,000) square feet.

   In both cases, the least dimension of any required area shall be four(4) feet minimum dimension to all trees from edge of pavement where there is a vehicle overhang.

   b. Trees
   A minimum of one (1) tree shall be required for each two hundred-fifty (250) square feet or fraction thereof of required landscaped area. Trees shall have a clear trunk of at least five (5) feet above the ground. The remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.

F. Landscape Treatment Plan

1. Submittal Requirements. Ten (10) complete copies of the landscape treatment plan shall be submitted with the site plan. The landscape treatment plan shall not be considered complete unless the following elements have been included or addressed:

   (a) Scale shall be no smaller than one (1) inch to one hundred (100) feet;

   (b) All landscaped areas shall be shown;

   (c) Location and tabular listing of all on-site landscaping, including the specific nature of the existing and proposed landscaping;

   (d) Parking aisles and individual parking areas;

   (e) Points of ingress and egress;

(f) Existing and proposed utilities as well as their easements;

(g) Dimensions of the lot;

(h) Topography of the lot;

(i) Stormwater drainage characteristics;

(j) Location of existing and proposed fire hydrants;

(k) Any applicable buildings; and

(l) Building setbacks.

2. Submittal Deadline. The landscape treatment plan shall be submitted to the Town Planner at least 17 days prior to the Planning Commission meeting, if the site plan for which the landscape treatment plan supports is to be officially entertained by the Planning Commission at the next regularly scheduled meeting thereof. In the case of a special exception request, the landscape treatment plan shall be submitted, along with a completed application form, to the Town Planner no later than 4:30 p.m. ten (10) days prior to the Board of Zoning Appeals meeting.

G. Enforcement

The provisions of this subsection shall be jointly and severally used to assure performance of this section.

1. Surety Instrument

The landscaping plan as submitted and approved shall be secured by a letter of credit made payable to the town in an amount equal to the estimated cost of the landscaping plus ten (10) percent, at the time of the issuance of a building permit or occupancy permit whenever site plan approval or a special exception is involved, or at the time of the issuance of an occupancy permit whenever a change in use is involved. The period within which all required landscaping improvements must be completed shall not exceed one (1) year, at which time said letter of credit shall be called to complete the approved landscaping plan, if such improvements have not been properly completed. However, at the Planning Commission's discretion, such letter of credit may be

extended for a period not to exceed six (6) months. If this is done an additional five (5) percent of the cost of securing all necessary improvements must be figured into the newly reanalyzed letter of credit. At the end of this period of time, said letter of credit shall be called to facilitate all required improvements if such have not been already completed. Said letter of credit shall be obtained solely from commercial banks and federally chartered savings and loan associations located in Rutherford or Davidson County.

2. Building Permit and Certificate of Occupancy

Where landscaping is required under the provisions of this section, no building permit shall be issued until the required landscape plan has been submitted and approved by the Planning Commission whenever changes of use or site plans are involved, or by the Board of Zoning Appeals when landscaping pertains to special exceptions. In no case shall any Certificate of Occupancy be issued until the landscaping is certified as having been installed, or either a letter of credit is received to guarantee such installation.

H. Maintenance

All landscaping materials shall be installed in a sound, workmanship like manner, and according to accepted, good construction and planting procedures. Any landscape material that fails to meet the minimum requirements of this section at the time of installation shall be removed and replaced with acceptable materials. The person in charge of or in control of the property whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this section.

3.160 Telecommunications Structures.

A. **Purpose & Legislative Intent**.

1. The purpose of this Ordinance is to establish general standards in accordance with federal and state law for the siting of Telecommunications Facilities, including Towers, Transmission Equipment, Potential Support Structures, and related appurtenances, including installations on or within public Rights-of-Way where permitted herein. In addition to the standards set forth in these guidelines, applications must follow all applicable Town, State, and Utility Board standards. The guidelines also address federal and state laws for the siting, construction, installation, colocation, modification, operation, and removal of wireless communications facilities in the public Right-of-Way.

2. The goals of this ordinance are to:

   (a) Protect residential neighborhoods, corridors, and certain districts from the adverse impacts of telecommunications facilities, including towers; and

   (b) Encourage the location of towers in non-residential areas; and

   (c) Minimize the total number of towers in the Town by encouraging colocation strategies; and

   (d) Encourage creative and effective use of stealth technology for the concealment of new installations of telecommunications facilities; and

   (e) Provide standards for the siting, construction, installation, colocation, modification, operation, and removal of wireless communications facilities in the Town's rights-of-way and charges to be uniformly applied to all applicants; and

   (f) Establish basic criteria for applications to site wireless communications facilities in the rights-of-way and provide clear guidance to applicants; and

   (g) Ensure that wireless communications facilities will conform to all applicable health and safety regulations and will blend into their environment to the greatest extent possible; and

   (h) Enhance the ability of wireless communications carriers to deploy wireless infrastructure quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability; and

   (i) Comply with, and not conflict with or preempt, all applicable state and federal laws.

B. **Severability**. If any part, section, subsection, paragraph, sentence, phrase, clause, term, or word in this ordinance is declared invalid by a court of competent jurisdiction, such finding shall not affect the validity or enforceability of the remaining portions.

C. **General Definitions:** For the purposes of this part, the following general definitions are included to provide greater clarity to this ordinance for the specific terms referenced herein:

1. "Aesthetic plan" means any publically available resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the authority. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after the adoption of the aesthetic plan.

2. "Alternative structure" means a structure that is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted including, but not limited to, buildings, water tanks, pole signs, billboards, church steeples, electric power transmission poles, and streetlights.

3. "Antenna" means an apparatus designed for the transmitting and/or receiving of electromagnetic waves, including telephonic, radio, or television communications. Types of elements include omni-directional (whip) antennas, sectionalized or sectorized (panel) antennas, multi or single bay (FM&TV), Yagi, or parabolic (dish) antennas. This definition does not include towers.

4. "Applicant" means any person who submits and application pursuant to this part.

5. "Application" means a request submitted by an applicant to the Town of Smyrna.

6. "Architecturally indiscernible" means a building, addition, or feature containing or housing an antenna or related equipment which is architecturally harmonious in such aspects as façade, material, height, bulk, scale, form, and design with the building or structure to which it is to be housed or located.

7. "Authority" means the Town of Smyrna, Tennessee and when dealing with state-owned property, the State of Tennessee. This definition does not include a government-owned electric, gas, water, or wastewater facility that is a division of, or affiliated with a municipality or county.

8. "Authority-owned potential support structure" or "PSS" means a PSS owned by an authority but does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively-owned, or government-owned.

9. "Base station" means equipment and non-tower supporting structure at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless telecommunications between user equipment and a communications network. Examples include transmission equipment mounted on a rooftop, water tank, silo, or other above-ground structure other than a tower. The term does not encompass a tower as defined herein or any equipment associated with a tower. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. "Base station" includes, but is not limited to:

   (a) Equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave, backhaul, radio transceivers, antennas, coaxial, or fiber optic cable, regular or backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks); any structure other than a tower that, at the time the application is filed under this part, supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

   (b) "Base station" does not include any structure that, at the time the application is filed under this section, does not support or house wireless transmission equipment.

10. "Breakpoint technology" means the engineering design of a monopole or any applicable support structure, wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

11. "Cellular on wheels" or ("COW") means a temporary wireless service facility placed on property to provide short-term, high volume telecommunications services to a specified location and can be easily removed from the property.

12. "Clear zone" means that portion of the right-of-way that is intended for pedestrian traffic along the sidewalk. The minimum width and location of the clear zone shall be determined by the paved area of any sidewalk within the right-of-way, however, in all instances, it must be a minimum of forty-eight (48) inches of width and otherwise compliant with the Americans with Disabilities Act (ADA) for public sidewalk accessibility. In areas of congested pedestrian activity, a wider minimum portion of the sidewalk may be required. The location of the clear zone shall be consistent for the entire block, and in most instances, it shall be required to be located immediately adjacent to the façade or adjoining properties. The clear zone must at all times be free from any items, obstacles, or barriers so as to allow clear movement for pedestrians along the public right-of-way.

13. "Colocate", "colocating", and "colocation" mean, in their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small wireless facilities on, adjacent to, or related to a PSS. "Colocation" does not include the installation of a new PSS or replacement of ab authority-owned PSS. The term(s) may also refer to shared use of existing towers by small cell wireless, or other wireless telecommunications installations. Colocation is preferred to the construction of new towers, or PSSs when practical;

14. "Communications facility" means the set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide communications service;

15. "Communications service" means a cable service as defined in 47 U.S.C. §522(6), telecommunications service as defined in 47 U.S.C. § 153(53), information service as defined in 47 U.S.C. §153(24) or wireless service;

16. "Communications service provider" means a cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. §153(24), a video service provider as defined in *Tenn. Code Ann.* §7-59-303, or a wireless provider;

17. "Fee" means a one-time, nonrecurring charge;

18. "Historic district" means a property-area zoned as a historic district or zone pursuant to Tenn. Code Ann. §13-7-404;

19. "Distributed antenna system" or ("DAS") means a system consisting of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one (1) antenna for transmission or reception; (2) a high-capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the antennas.

20. "Eligible facilities request" means a request for modification of an existing tower or base station involving colocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment that does not substantially change the physical dimensions of such tower or base station

21. "Eligible support structure" means any tower or base station existing at the time the application is filed with the Town. For the purposes of this part, the definition "eligible support structure" shall include utility structures currently housing fiber, cable, and wire used in the distribution of telecommunications services.

22. "Micro wireless facility" means a small wireless facility that:

    (a) Does not exceed twenty-four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height; and

    (b) The exterior antenna, if any, does not exceed eleven inches (11") in length.

23. "Monopole" means a structure that consists of a single vertical pole without guy wires, designed and erected on the ground to support communications antennas and connected appurtenances. A monopole could either be a tower or a small cell support structure but would not include non-tower wireless communications facilities since those are not originally designed to support communications antennas and connected appearances.

24. "Non-tower wireless communications facilities" means wireless communications facilities other than tower-based wireless communications. This includes facilities

mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, utility poles, water towers, steeples, billboards, flagpoles, and the like.

25. "Ordinance" shall refer to this and all other applicable sections of the Town of Smyrna Municipal Code and the Town of Smyrna Zoning Ordinance as amended.

26. "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority;

27. "Personal wireless service facility" or ("PWSF") means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other personal wireless communications, including commercial mobile services, unlicensed wireless services, wireless broadband services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996 (Telecommunications Act), and usually consisting of an antenna or group of antennas, transmission cables, feed lines, equipment cabinets or shelters, and may include a tower. Facilities may include new, replacement, or existing towers, replacement towers, colocation on existing towers, base station attached concealed and non-concealed antenna, dual purpose facilities, concealed towers, and non-concealed towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunication Act.

28. "Planning Commission" means the Town of Smyrna's Municipal Planning Commission in Smyrna, Tennessee.

29. "Potential support structure for a small wireless facility" or "PSS" means a pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for colocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an application to collocate one, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part. For the purposes of this part, a PSS could include a monopole or a non-tower wireless communications facility that is erected within the public right-of-way or on private property and that does not exceed forty feet (40') in height in zoning districts allowing residential uses, or the lesser of either, the maximum building in height in the

associated zoning district, or no more than fifty (50') feet in zoning districts that disallow residential uses.

30. "Qualified colocation request" means any request for colocation of a PWSF on a tower or base station that creates a substantial change in the facility but is entitled to processing within ninety (90) days under 47 U.S.C. §332(c)(7).

31. "Rate" means a recurring charge;

32. "Residential neighborhood" means an area within the Town of Smyrna that is zoned or otherwise designed by the Town for general purposes as an area primarily used for single-family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with other residential areas.

33. "Right-of-way" or "ROW" means the space, in, upon, above, along, across, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skywalks, under the control of the authority, and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the Town, but excluding lands other than streets that are owned by the authority;

34. "Small wireless facility" means a wireless facility with:

    (a) An antenna that could fit within an enclosure of no more than six (6) cubic feet in volume; and

    (b) Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. For purposes of this section (16)(a)(ii) "other wireless equipment" does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and

    (c) "Small wireless facility" includes a micro wireless facility.

35. "Smart pole" means any pole, which consists of a design pre-approved by the Town of Smyrna, for the purpose of also serving as a telecommunications facility support structure, including potential support structures for small wireless facilities.

36. "Staff" means those employees of the Town of Smyrna assigned to support and/or administer the powers and duties prescribed by Town of Smyrna ordinances and state law.

37. "Stealth technology" means design techniques applied to telecommunications structures that will help conceal them or make them less visible to the casual observer. Implementation of such techniques shall have the goal of making a telecommunications structure architecturally indiscernible. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flagpoles, steeples, or other streetscape elements. Stealth technology may also include concealment wrap, landscaping, and placing applicable structures underground.

38. "Substantial change" means a modification or colocation of an eligible support structure if it meets any one or more of the following criteria:

    (a) A telecommunications facility colocation of an existing PSS structure within a right-of-way that increases the overall height of the structure, antenna, and/or antenna array more than ten percent (10%) or ten feet (10'), whichever is greater.

    (b) A telecommunications facility colocation for towers not in a right-of-way that protrudes from the structure more than ten percent (10%) or twenty feet (20'), whichever is greater, or the width of the structure at the elevation of the colocation, and for towers within a right-of-way, that protrudes from the structure more than six feet (6').

    (c) A telecommunications facility colocation on an existing structure that fails to meet current building code requirements, including wind loading.

39. "Transmission Equipment" means equipment that facilitates transmission for any Federal Communications Commission licensed or authorized wireless communications service, including, but not limited to radio transceivers, antennas, coaxial, or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services as microwave backhaul.

40. "Utility overhead" means utility infrastructure that is located primarily above ground as determined by staff. For the purposes of this ordinance, overhead utilities include, but are not limited to, power lines and communications lines.

41. "Utility pole" means a structure used for support of electrical, telephone, cable television, or other video services, street lighting, or other similar cables and located within the public right-of-way or utility easement. A small cell support structure may be incorporated onto a utility pole provided such pole does not extend, with the application of small cell support structures.

42. "Utility underground" means utility infrastructure that is located primarily underground as determined by staff. For purposes of this part, underground utilities include, but are not limited to, water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, certain small cell support systems/DAS structures, and communications lines.

43. "Wireless backhaul facility" means a communications facility used to transport communications services by wire from a wireless facility to a network.

44. (a) "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

    (1) Equipment cabinets associated with wireless communications.

    (2) All materials or techniques used to conceal the installation.

    (3) Radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

    (b) Wireless facility does not include:

    (1) The structure or improvements on, under, or within which the equipment is collocated;

    (2) Wireline backhaul facilities; or

(3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna; and

(c) "Wireless facility" includes small wireless facilities.

45. "Wireless provider" means a person who provides wireless service.

46. "Wireless services" means any service using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public.

D. **Colocation Requirements.** Colocation or location on existing alternative structures is required where possible. Applicants for a new telecommunications facility must explore all colocation opportunities and opportunities to locate their antenna on existing alternative structures whenever possible. Any application for a telecommunications facility shall utilize eligible support structures first and then alternative structures.

E. **Exemptions and Administratively Approved Sites.** Determinations as to exemptions and administrative approval shall be provided by staff upon submission of a completed application. A special exception issued by the Town Planner, or his designee, for transmission equipment shall not be required under the following circumstances.

1. *Concealed Devices*: Transmission equipment which is concealed within a building or structure so that it is architecturally indiscernible may be permitted in all zoning districts subject to building permit procedures and standards, as may be amended.

2. *Additions to Existing Structures in Any Zoning District*: An antenna, dish, or transmitter may be replaced inside of an existing structure, including but not limited to steeples, silos, spires, utility water tanks or towers, athletic field lighting poles, utility poles, and similar structures (but excluding single-family or duplex dwellings for any commercial use), subject to structural adequacy and provided the addition of the antenna and any supporting structure shall not create a substantial change. The setback requirements for freestanding towers shall not be applied to existing structures used to support or house an antenna. Additional antennas may be placed on existing towers without obtaining a special permit. The placement of antennas in or on this section shall be subject to the screening landscaping standards of this part if the addition of the antenna or associated equipment causes any significant change to the ground-level view of the existing structure as determined by the Town Planner.

3. *Existing towers*: Antennas, dishes, or similar equipment or additional users which do not create a substantial change, may be added on existing towers without obtaining a special exception, but shall be subject to all applicable zoning, set-back, design, building permits, and code regulations.

F. **Telecommunications Facilities Located Outside of Right-of-Way.**

1. Except as exempted by regulations of a particular zone, special exceptions shall be required for all towers provided herein. Such facilities are subject to the following conditions and approval by the Town Planner, or his designee:

   (a) Subject to the issuance of a special exception by the Town Planner or his designee, commercial towers may be permitted to locate on publically owned property in all zoning divisions where special exceptions are required.

   (b) Subject to the issuance of a special exception by the Town Planner, or his designee, commercial towers may only be permitted to locate on any property, whether publically or privately owned, that is located in a zone where towers are a permitted use.

   (c) The issuance of any special exception by the Town Planner is subject to all landscaping standards, colocation requirements, and any other requirements set forth in the special exception procedures.

2. *Special exception Procedures.* A completed application and the following information must be provided to the Town Planner when applying for a special exception:

   (a) A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site.

   (b) The site plan shall depict where the tower is to be located on the site and where additional colocated transmission equipment, shelters, or vaults can be placed.

   (c) Construction plans: Detailed construction plans or drawings prepared by a licensed engineer certifying that the tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.

(d) Landscape plans: Landscape plans that comply with the landscaping requirements of this part shall be required at the time of applying for a building permit.

(e) Identification of the intended user(s) of the tower.

(f) A statement prepared by the applicant that considers other alternatives to the proposed site and the impact of the proposed tower. A map of the coverage area identifying all existing towers and other sites with suitable zoning and adequate land area to site a tower shall be included. The applicant shall justify the selection of the proposed site over other available alternative sites within the identified coverage area weighing the relative impacts of the proposed site to other available sites with particular consideration of the impact of the tower upon adjacent properties, historic areas, scenic vistas, and residential neighborhoods.

(g) Towers shall be sited so as to be as unimposing as practical. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties, views, and vistas or historic areas, scenic assets, and the integrity of residential neighborhoods. False representations made in an application shall be grounds for denial of a siting permit. Town Planner, or his designee, is specifically empowered to utilize his best and impartial judgment in assessing and approving or denying the application based upon such information.

(h) Documentation of the number of other users that can be accommodated within the design parameters of the tower as proposed. If the tower will not accommodate the required number of users, the applicant must demonstrate with compelling evidence why it is not economically, aesthetically, or technologically feasible to construct the tower with the required colocation capability. Applicants failing to fulfill the colocation requirement are not eligible for administrative approval by the Town Planner, or his designee.

(i) A statement indicating the owner's commitment to allow feasible shared use of the tower within its design capacity for colocation.

(j) Documentation of a valid leasehold or ownership interest in the underlying property.

(k) The applicant or the landowner shall provide proof of establishment of a financially secure and legally enforceable method of removing a tower when it ceases to be used for a period of twelve (12) months. This financial assurance can be provided through sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the tower, a removal bond, a letter of credit or any alternative financial arrangement which is approved by the Finance Director as to financial adequacy and the Town Attorney or Assistant Town Attorney as to legal enforceability. If the applicant or landowner owns more than one (1) tower, a blanket removal bond or alternative financial assurance may cover multiple sites.

3. *Fees.* A non-refundable fee shall be established by the Town Council and placed on the Town's official schedule of fees. Such fee must accompany any site plan submitted for the purposes of securing a building permit for the construction of a tower. The fee covers engineering and other costs associated with the review of a site plan for a tower.

4. *Aesthetics.* Towers and antennas shall meet the following requirements:

(a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color to reduce obtrusiveness.

(b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will enable them to blend into the neutral setting and surrounding built environment.

(c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5. *Landscape Requirements.* Tower sites shall be subject to the following landscaping standards:

(a) The visual impact of a tower on adjacent properties and streets shall be minimized to the extent practicable by utilizing existing topography, structures, and natural

vegetation to screen the tower. For all visual exposures not equivalently screened by existing structures of natural vegetation, all tower sites shall be landscaped with a ten foot (10') deep landscape yard with evergreen trees spaced a maximum of ten feet (10') on-center or two (2) staggered rows of shrubs spaced a maximum of eight feet (8') apart. All plantings shall meet the installation and planting size requirements as specified below.

(1) *Intent*. All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the current edition of American Studies for Nursery Standards.

(2) *Screening Trees*. Screening trees are used to meet the tree planting requirements of this part and shall be installed at a minimum height of eight feet (8') and have a minimum expected mature spread of eight feet (8'). Recommended species are American Holly, Foster Holly, Southern Magnolia, Eastern Red Cedar, Atlas Cedar, Deodar Cedar, and Virginia Pine.

(3) *Screening Shrubs*. All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight feet (8') and mature spread of at least five feet (5'). Recommended species include: Fragrant Olive, English Holly, Burford Holly, Nellie R. Stevens Holly, Wax Myrtle, Cherry Laurel, English Laurel, and Leatherleaf Viburnum.

(4) *Prohibited Plants.* The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry, and Silver Maple.

(5) *Maintenance.* The property owner (or lessee if so provided in a written lease) shall be responsible for the maintenance of all installed landscaping. All landscaped areas must present a healthy, neat, and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner (or lessee if so provided in a written lease) with new plantings that meet the requirements of these regulations.

(b) A break in the landscape not to exceed sixteen feet (16') in width shall be allowed for access for maintenance personnel and vehicles.

(c) New or existing vegetation, earth berms, existing topographic features, walls, screening fences, buildings, and other features other than prescribed above may be used to meet the requirements of these regulations if the Town Planner finds that they achieve reasonably equivalent screening as specified in subsection (a) herein.

(d) In commercial and industrial districts, a sight-obscuring fence at least eight feet (8') in height and a minimum of seventy-five percent (75%) opaque may be substituted for screening trees or screening shrubs as specified in subsection (a) herein by siting from the Town Planner, or his designee, when the applicant can demonstrate that it is impractical to provide living screening material.

(e) No screening shall be required if the applicant adequately demonstrates that the base of the tower site is not visible from adjoining property or is not otherwise visible from a dedicated right-of-way.

(f) Site landscaping is not required for antennas which are being colocated on existing towers, or which are being placed on other buildings or structures where antenna is allowed as an accessory use.

(g) No screening shall be required when this screening is explicitly prohibited by Federal Communications Commission regulations or is otherwise restricted by site limitations. The Town Planner, or his designee, shall review and approve any deviations from the standards specified herein.

6. *Colocation Requirements*:

(a) New towers of a height of more than on hundred feet (100') and less than two hundred feet (200') must be designated and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for colocation to at least three (3) additional single antenna applications such as paging, 911, two-way, and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets, or additions to existing structures.

(b) New towers of a height of two hundred feet (200') up to two hundred and fifty feet (250') must be designed and built to accommodate at least three (3) personal

communication system applications and at least three (3) additional single antenna applications plus at least one (1) additional personal communication system application and at least one (1) additional single antenna application for each additional fifty feet (50') of height, to a maximum of six (6) personal service communication system carriers and six (6) single antenna applications, to be made available upon reasonable terms for colocation.

7. *Other Requirements*:

(a) *Height*. No tower shall exceed a height of two hundred and fifty feet (250') above grade or base ground of the existing structure.

(b) *Design Standards*. The proposed site plan and tower design plans shall meet or exceed all applicable standards, as may be amended, including, without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electric Code, National Electric Safety Code, and the American Steel Institute. The proposed site shall also be designed and built in compliance with Section 106 of the National Historic Preservation Act of 1996 if applicable.

(c) *Removal of Abandoned Antennas and Towers*. Any permitted tower which is not operated as a personal communication system carrier application for a continuous twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Town Planner. Failure to remove an abandoned tower shall be deemed a violation of these regulations and subject to all applicable penalties. The owner of the antenna or tower may appeal the decision of the building official to the Town Manager, but such owner shall be required to show just cause why the antenna or tower should not be considered abandoned and subject to removal. The Town Manager's decision on the matter shall be final.

(d) *Setback*. Towers shall be set back from all property lines on which the tower is located by the distance equal to the height of the tower's engineered breakpoint on the proposed structure or the height of the tower. Provided, however, the minimum setback for any tower shall be fifty feet (50').

(e) *Breakpoint technology*. For the purposes of these regulations, the engineered failure point is the location(s) on the tower that is/are designed to fail when overstressed beyond the structural parameters of the tower design. This failure point will cause the overstressed portion of the structure to fall in upon itself in

such a way as to reduce the remaining stress on the structure to such a level that result in no further failures of the tower structure.

(1) The lowest engineered failure point is described such that if the tower should collapse, the tallest remaining vertical section of the structure shall be equal to the setback from the abutting property lines.

(2) If the proposed tower is designed with failure points that allow for the collapse of the structure on itself, a letter stamped by a licensed professional structural engineer evidencing the design and fall zone parameters of the proposed tower shall satisfy the requirements determining the minimum fall zone setback distance.

(3) No portion of the tower structure shall be designed or constructed so that the height of the tower allows it to fall across the property line of abutting property.

(4) The tower must comply with building codes and other federal, state, and local regulations.

(f) *Guyed Towers*. Any tower requiring the use of guy wires is prohibited. Monopoles and lattice towers are permitted.

(g) A sign will be erected on the site of the proposed tower by staff within five (5) days of the application being received and such sign shall be continuously displayed for at least ten (10) consecutive days prior to the approval of the application to give notice to the public of the application. The sign shall contain notice that the application has been filed and further provide a telephone number to contact the planning department with any concerns.

G. **Telecommunications Facilities Located Inside the Public Right-of-Way**:

1. General Location Criteria: The following shall apply to all communication facilities locating in the public right-of-way.

(a) *Colocation Preference*. Whenever an applicant proposes to place a new wireless facility within two hundred and fifty feet (250') of an existing wireless facility, whether on a new pole or an existing potential support structure, the applicant must either colocate with the existing facility or demonstrate with clear and convincing evidence that a colocation is either not technically feasible or space on the existing facility is not potentially available.

(b) *Adherence to an Adopted Aesthetic Plan*. Pursuant to Tenn. Code Ann. 13-24-411, construction or deployments shall adhere to the Town's adopted aesthetic plan.

(c) *General Limitation on New Poles*. The standards herein strongly discourage more than one (1) new pole per five-hundred feet (500').

(d) *Alignment with Other Poles*. The centerline of any new pole must be aligned with the centerlines of existing poles on the same sidewalk segment, but only if the new pole height does not conflict with overhead power utility lines and facilities.

(e) *Setbacks for Visibility and Access*. Any new pole and/or equipment and other improvements associated with a new or existing pole must set back from intersections, alleyways, and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access. In general, no obstruction will occur when a new structure and/or equipment is setback at least (i) fifty feet (50') from any intersection, (ii) six feet (6') from any driveway cut or alleyway entrance (iii) six feet (6') from any permanent object or existing lawfully-permitted encroachment in the public right-of-way, including, without limitation, bicycle racks, traffic signs and signals, street trees, open tree wells, benches or other street furniture, streetlights, door swings, gate swings, or sidewalk café enclosures. An additional setback for a specific pole may be required when presumptively acceptable setback would nevertheless obstruct motorists' sightlines or pedestrian traffic.

(f) *Obstructions*. Any new pole and/or equipment and other improvements associated with a new existing pole must not obstruct any of the following:

(1) Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including, without limitation, any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, or barricade reflectors;

(2) Access to any public transportation vehicles, shelters, street furniture, or other improvements at any public transportation stop;

(3) Worker access to the above-ground or underground infrastructure owned or operated by any public or private utility agency;

(4) Fire hydrant access;

(5) Access to any doors, gates, sidewalk doors, passage doors, stoops, or other ingress and egress points to any building appurtenant to the right-of-way; or

(6) Access to any fire escape.

(g) *Americans with Disabilities Act*. Notwithstanding compliance with the requirements herein, structures and facilities shall not be in conflict with the Americans with Disabilities Act by hindering use of the right-of-way.

(h) *Historic or Architecturally Significant Structures*. Any new pole and/or equipment and other improvements associated with a new or existing pole may not be placed directly in front of any historic or architecturally significant structures in prominent locations. Applicant must comply with federal rules regarding historic structures and require a Section 106 (National Historic Preservation Act (NHPA)) on all applicable installation locations.

(i) *Public Utility Easements*. The Town may prohibit or limit deployment or colocation of small wireless facilities in public utility easements when the easements are:

(1) Not contiguous with paved roads or alleys on which vehicles are permitted.

(2) Located along or the rear of residential lots, parcels, or tracts.

(3) In an area where no electric distribution or telephone utility poles are permitted to be deployed.

(j) *Potential Support Structure Used for Lighting*. The Town may require lighting to be included on a replacement PSS.

(k) *Deployments Affecting Regulatory Signs*. If an applicant submits and application that will affect a regulatory sign as defined by the Manual on Uniform Traffic Devices, or any sign requiring breakaway supports, the Town may deny the application. Under these circumstances, the applicant may seek reconsideration of the design through a conference which shall be held within thirty (30) days of such request by the applicant.

(l) *Unsafe, Abandoned, or Inoperable Deployments*. When a deployment as regulated herein is abandoned, deemed unsafe, or rendered inoperable, the Town shall remove or cause removal or repair of the deployment in order to restore the right-of-way to a safe condition.

(m) *Undergrounding*. The Town may require an applicant to comply with undergrounding requirements in the right-of-way for compliance in certain circumstances or locations, or to comply with an established aesthetic plan.

(n) *Restoration and Maintenance of the Right-of-Way*. The Town may require an applicant to:

(1) Repair damage caused by entities entitled to deploy infrastructure in a right-of-way, including damage to public roadways, sidewalks, or other pedestrian facilities, and bicycle paths, and to other utility facilities placed in a ROW consistent with established policies.

(2) Require maintenance or relocation of infrastructure deployed in the ROW, timely removal of infrastructure no longer utilized, and require insurance, a surety bond, or indemnification for claims arising from the applicant's negligence consistent with established policies. The Director of Safety and Risk Management shall determine the amount of insurance or surety bond required for each project and shall further create written criteria for determining such amounts which shall be made publically available.

(o) *Work Permits*. Notwithstanding approval of applications as controlled within this part, applicants shall also obtain work or traffic permits and pay the established fees, if any, prior to deployment of a PSS or small wireless facility.

(p) *Categories of Applications*. Every application to locate a wireless communication facility in the right-of-way shall be classified according to the following:

(1) Minor modification that:

I. Involves colocation, removal, or replacement of transmission equipment on an existing wireless tower, utility pole, or base station.

II. Does not substantially change the physical dimensions (width, height, and depth) of the existing wireless tower, pole-mounted equipment, or base station.)

(2) Major modification that:

I. Involves colocation, removal, or replacement of transmission equipment on an existing wireless tower or base station; and

II. Substantially changes the physical dimensions (width, height, and depth) of the existing wireless tower or base station or does not qualify for approval pursuant to 47 U.S.C. § 1455(a) for any lawful reason.

(3) New transmission equipment on an existing utility pole:

I. Siting new transmission equipment on a PSS in the ROW that does not already support transmission equipment; or

II. Siting a new wireless communication facility on a new pole or other support structure in the ROW.

(q) *Minor Modifications*. Minor modifications are additions or changes to previously approved facilities and covered under 47 U.S.C. § 1455(a), which mandates approval for certain applications that do not propose a substantial change to the underlying facility. Federal regulations provide specific definitions and criteria for approval or denial. The provisions in this section are intended to assist applicants and application reviewers to determine whether an application qualifies for approval as a minor modification.

(1) *Criteria for Approval*. Staff may approve an application for a minor modification when it finds that the proposed project:

I. Involves colocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

II. Does not substantially change the physical dimensions of the existing wireless tower or base station.

(2) *Criteria for Denial*. Notwithstanding any other provision in this part, and consistent with all applicable state and federal laws and regulations, the application may be denied for a minor modification when staff finds that the proposed project:

I. Does not satisfy the criteria for approval;

II. Violates any legally enforceable standard or permit condition reasonably related to public health and safety; or

III. Involves the replacement of the entire support structure, thus triggering other applicable standards.

(r) *Major Modifications*.

(1) *General Design and Construction Standards*. To promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community, wireless facilities in the public rights-of-way must comply with all applicable provisions in this section. In the

event that any other law, regulation, or code requires any more restrictive structural design and/or construction requirements, the most restrictive requirement shall control.

(2) *Colocation*. Colocation between two separate wireless service providers on the same support structure is encouraged whenever feasible and safe.

(3) *Antennas on Existing or Replaced Utility Poles*. The antenna(s) associated with installation on existing or replaced utility poles must be located within the communication zone and have concealed cable connections, antenna mount, and other hardware. The maximum dimensions for panel style antennas shall be thirty inches (30") high and twelve inches (12") wide. The maximum dimensions for canister-style antennas shall be thirty inches (30") high and sixteen inches (16") in diameter.

(4) *Antennas on New Stand Alone Poles Without Power or Other Utility Lines*. The antenna(s) associated with installation on new poles that are not replacing utility poles may have antennas located on top of the pole, provided there are no electrical lines located on the poles. These antennas must have concealed cable connections, antenna mount, and other hardware. The maximum dimension shall be forty-eight inches (48") high and eighteen inches (18") wide.

(5) *Equipment Mounting on Existing or Replaced Utility Poles*. All pole-mounted equipment must be installed as flush to the pole as possible, using stainless steel banding straps. Through-bolting or use or lag bolts is prohibited. All pole-mounted equipment shall be located as close together as possible and, if feasible, on the same side of the pole. Standard color for all equipment shall be grey but other colors may be required when installing on a decorative pole.

(6) *Pole-Mounted Equipment Cages or Equipment Shrouds*. When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter, and disconnect switch must be concealed within an equipment cage. Equipment cages may not extend more than twenty-four inches (24") from the face of the pole. The equipment cage must be non-reflective and be colored gray or in a color matching the existing pole. Equipment cages should be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment cage may not exceed four inches (4").

(7) *Underground Equipment Vaults*. Pole-mounted equipment in self-contained cages is permitted, but equipment in an environmentally-controlled underground vault may be required for some areas.

(8) *Ground-Mounted Equipment*. New ground-mounted equipment is not permitted, unless the applicant shows clear and convincing evidence that the equipment cannot be feasibly installed as a pole-mounted installation, in an environmentally-controlled underground vault, or within an existing street feature (such as a bus stop shelter) for a valid technical reason. Increased costs alone shall be presumed to be insufficient. In the event that ground-mounted equipment is used, the applicant must conform to the following requirements:

I. *Self-Contained Cabinet Shroud*. The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the tapered metal pole (with the exception of electric power poles), and undergrounded between the pole and the ground-mounted cabinet.

II. *Concealment*. The ground-mounted equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, public art displayed on the cabinet, strategic placement in less obtrusive locations, and placement within existing or replacement street features.

III. *Ambient Noise Suppression*. The applicant is required to incorporate ambient noise suppression measures and/or required to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.

IV. *Utility Lines*. Service lines must be undergrounded whenever feasible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.

V. *Electric Meter*. Each wireless communication facility must be individually metered. Multiple operators on a shared pole must have their own meter. Site operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter base should be painted to match the pole.

VI. *Telephone/Fiber Optic Utilities*. Cabinets for telephone and/or fiber optic utilities may not extend more than ten inches (10") from the face of the pole, and must be painted, wrapped, or otherwise colored to match the pole.

VII. *Spools and Coils*. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for wireless communication facilities shall not be spooled,

coiled, or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.

VIII. *Underground Conduit*. All underground conduit placed behind the curb face and underneath the sidewalk must be SCH 80 PVC encased in concrete. All underground conduit must be rigid conduit when placed: (1) underneath driveway aprons, (2) within tree well, or (3) in front of the curb face beneath the street.

IX. *Above-Ground Conduit*. On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of four inch (4") diameter, and painted to match the pole.

X. *Ground Rods*. All ground rods shall comply with current ANSI/TIA 222 and other applicable standards. If attaching to existing utility poles, wireless communication facilities shall be bonded (connected) to the existing pole ground as required by the utility.

XI. *Lights*. Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on streetlights or the installation of luminaries on new poles when required.

XII. *Generally Applicable Health and Safety Regulations*. All facilities shall be designed, constructed, operated, and maintained in compliance with all generally applicable health and safety regulations, including, without limitation, all applicable regulations for human exposure to RF emissions.

(s) *New and Replacement Poles or Structures*.

(1) *General Restrictions on New Wood PSS Installations*. In all locations, the Town reserves the right to require a metal PSS rather than a wood PSS based upon the build and/or natural environment character of the proposed site location as found in the aesthetic plan.

(2) *Overall Height*. The heights of PSS should be consistent with other poles in the vicinity, the built environment, the neighborhood character, the overall site appearance, and the purposes in these standards. In no case shall a PSS installation exceed forty-feet (40') in height in zoning districts allowing residential uses, or where applicable, the lesser or either, the maximum building

height in the associated zoning district, or no more than fifty-feet (50') in zoning districts that disallow residential uses.

(3) *Pole Diameter*. Pole diameter shall be consistent with the surrounding poles. The applicant shall consider other poles in the vicinity, the built environment, the neighborhood character, the overall site appearance, and the purposes in the guidelines.

(4) *Wood Pole Footings and Foundations*. All new wood poles, if permitted, must be direct buried to a depth determined, stamped, sealed, and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval by staff.

(5) *Tapered Metal Pole Footings and Foundations*. All new tapered metal poles must be supported with a reinforced concrete pier designed, stamped, sealed, and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval by staff.

(6) *Tapered Metal Pole Material*. All tapered metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant material and finished in accordance with these guidelines to avoid rust stains on adjacent sidewalks, buildings, or other improvements.

(7) *Lighting; Banners*. The applicant may be required to install functional streetlights and/or banner brackets if technically feasible when it is determined that such additions will enhance the overall appearance and usefulness of the proposed facility.

(8) *Signage*. Signage and labeling on poles and equipment should be limited only to what is required by FCC and OSHA. In addition, site node information (pole address, node identification number, and emergency contact information) may be included.

(9) *Damage of Equipment*. Upon notification, the wireless communication facility provider must rectify any aesthetic damage to their equipment within thirty (30) days. Any damage that concerns safety must be addressed immediately upon its discovery.

(t) *Installations on Existing Poles and Other Potential Support Structures*.

(1) *General*. The standards encourage applicants to consider existing poles and other potential support structures prior to any new pole to reduce congestion and location standards will be considered when reviewing applications for new

facilities installed on existing poles or other potential support structures in the public right-of-way.

(2) *Privately-Owned Structures*. For a privately-owned structure in public right-of-way onto which an applicant proposes to attach a wireless communications facility, if the owner of the structure requires more restrictive standards than those contained in this part, the more restrictive standards shall control. If any portion of a privately-owned structure is on private property, the applicant must first obtain all applicable zoning and building permits prior to submittal.

(3) *Town-Owned Structures*. The Town, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow wireless facilities in the public right-of-way notwithstanding conflicting design provisions set forth in this part. Applicants may not submit any application in connection with a Town-owned pole or other facilities without a valid and fully executed agreement to use the specific pole or other facility. The Town shall not authorize any attachments to Town-owned infrastructure that negatively impacts the structural integrity of the support structure.

I. *Independent Power Source*. A wireless communications facility on a Town-owned potential support structure may not use the same power source that provides power for the original purpose of the potential support structure.

II. *Town-Owned Traffic Control Signal Poles*. The Town prohibits wireless facilities (and all other non-traffic control facilities) on Town-owned traffic control signal poles.

(u) *Additional Design and Construction Standards for Major Modifications.* In addition to all applicable general design and construction standards, all major modifications to eligible facilities are to comply with the following requirements:

(1) *Coordination with Original Facility Design.* The applicant must design the proposed installation in a manner that mimics the design and any concealment elements of the existing facility. To the extent feasible, new facilities should utilize capacity in existing equipment cages or cabinets and existing conduits or risers.

(2) *Antennas*. The guidelines discourage side-mounted antennas that overhang the roadway, but may permit side-mounted antennas that overhang the sidewalk provided that the antenna complies with all applicable setbacks and vertical clearance requirements.

(3) *Structural Integrity.* Any additional equipment must not negatively impact the structural integrity of the support structure and must comply with all applicable local, state, and federal codes and regulations.

(v) *Minor Technical Exceptions*. In some circumstances, strict compliance with this part may result in undesirable aesthetic outcomes, and minor deviations may be granted when the need for such deviation arises from circumstances outside the applicant's control. For example, if an applicant proposes to construct a standard configuration facility in an office district, but required a pole with a slightly wider base due to poor foundation conditions. In such a circumstance, the Town may grant a technical exception rather than subjecting an otherwise preferred design to a standard review. In contrast, if any applicant proposed a 50-foot tall standard configuration facility in an office district because it desired additional service area, the Town would apply standard review because the need for additional height arises from the applicant's preferences. This section describes the required findings for a minor technical exception.

(1) Required Findings. Staff may grant a minor technical exception from strict compliance with the design and location guidelines herein when:

I. The applicant has requested the exception in writing;

II. The proposed facility would normally qualify for minor review but for the need for a minor technical exception;

III. The need for the exception arises from an external factor outside the applicant's control that impacts public health, safety, or welfare, including, without limitation, soil compaction, existing congestion or clutter within the right-of-way or other location-specific condition of phenomenon;

IV. The proposed deviation from the applicable requirement is less than ten percent (10%) larger than the generally applicable standard; and

V. The granting of a minor technical exception would not create an obvious hazard or unreasonable obstruction in the public right-of-way.

H. **Application Requirements and Fees for Small Wireless Facilities.**

1. The Town shall require a completed application in adherence to the following requirements.

(a) An applicant shall include up to twenty (20) small wireless facilities in a single application.

(1) The application fee shall be one hundred dollars ($100.00) for each of the first five (5) small wireless facilities in a single application.

(2) An additional two hundred dollar ($200.00) fee for the first application files following the effective date of this part.

(3) Beginning on January 1, 2020 and every five (5) year interval thereafter, the application fee will be raised ten percent (10%) more than previously required.

(4) The annual rate for colocation of a small wireless facility on a Town-owned PSS shall be one hundred dollars ($100.00) per installation.

(b) Upon submittal of an application to the Town Planner, staff shall determine whether the application is complete and notify the applicant of any deficiencies relating to one or more small wireless facilities included in an application within thirty (30) days, and if there is a need to conduct a conference with the applicant to clarify or correct:

(1) Safety considerations not adequately addressed by the application or regarding which the local authority proposes additional safety-related alterations to the design;

(2) Potential of conflict with another applicant's application for the same or a nearby location;

(3) Impact of planned construction or other public works projects at or near the location identified by the application;

(4) Alternative design options that may enable colocation on existing PSS instead of deployment of a new PSS or opportunities and potential benefits of alternative design that would incorporate other features or elements of benefits to the Town.

(c) The Town shall approve or deny any application for deployment or colocation of small wireless facilities within sixty (60) days unless circumstances allowing extension to seventy-five (75) days as allowed by Tenn. Code Ann. §13-24-409 apply.

(d) A preliminary site plan shall be required with a diagram or engineering drawing depicting the design for installation of the small wireless facility with sufficient detail for staff to determine that the design of the proposed installation and any new PSS of any modification of a PSS is consistent with all generally applicable

aesthetic, design, and safety requirements, including those specified by the Manual on Traffic Control Devices. Such a site plan shall include:

(1) The location of the site, including the latitudinal and longitudinal coordinates of the specific location of the site;

(2) Identification of any third-party upon whose PSS the applicant intends to colocate and certification by the applicant that it has obtained approval from the third-party;

(3) The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all generally applicable ROW requirements for deployment of any associated infrastructure that is not a small wireless facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility;

(4) The applicant's certification of compliance with surety bond, insurance, or other indemnification requirements; rules requiring maintenance of infrastructure deployed in ROW; rule requiring relocation or timely removal of infrastructure ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the local authority imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the ROW; and

(5) The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight bearing capacity of the PSS and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.

2. Timeframe for Deployment. If an applicant does not complete deployment within nine (9) months of receiving approval for an application, the Town shall require the applicant to complete a new application and pay an additional application fee, unless both parties, by mutual agreement agree to an extension, or because the deployment is delayed because of a lack of commercial power or communication transport facilities to the site.

3.170 Sidewalks.

A. Sidewalks shall be in the dedicated non-pavement right-of-way and be at least five (5) feet wide. Concrete curbs are required for all public ways where sidewalks are to be constructed, and a grass strip at least two (2) feet wide shall be installed in single family residential districts. In multi-family residential and commercial districts, this requirement may be waived at the discretion of the Planning Commission.

B. Sidewalks shall be required if a new residential or commercial development is within two-thousand 2,000 feet of a public facility, i.e. public school, library, park, playground, etc., on both sides of the street on which the developer's project is located. If the development includes both sides of the road, the developer would be responsible for constructing sidewalks on both sides of the road. Town of Smyrna staff may recommend to the Planning Commission that construction of a sidewalk only be done on one side of the road where topography makes it impractical for sidewalks to be placed on both sides of the road.

C. New residential and commercial development which involve the construction of or are along collector or arterial streets as designated on the Smyrna Major Thoroughfare Plan shall have sidewalks on both sides of any street thus classified. The Smyrna Municipal Planning Commission may, at its' discretion, remove any street from this requirement that is, at minimum, a four lane, limited access, divided highway. A developer will be required to construct the required sidewalks only on the side of the road on which the developer's project is located. If the development includes both sides of the road, the developer would be responsible for constructing sidewalks on both sides of the road.

   Town of Smyrna staff may recommend to the Planning Commission that construction of a sidewalk only be done on one side of the road where topography makes it impractical for sidewalks to be placed on both sides of the road.

D. There shall be a requirement to dedicate right-of-way for the development of greenways, bike paths, or urban trails when a development occurs along or on an area which has been indicated in the approved Greenways Plan for a future greenway, bike path, or urban trail.

3.180 Fences.

Fences are allowed to be installed on any lot in any district subject to the following limitations:

A. No encroachment on the front yard setback is allowed. In the case of a lot with multiple road frontages, this would include the front yard setback on which the principal structure faces. On any road frontage, which the principal structure does not face, a fence could encroach on the front yard setback provided the provisions of Article III, Section 3.080 are met.

B. Fences and decorative fences are allowed to be located along property lines in the side and rear yards.

C. In no case shall a fence or decorative fence encroach upon a public utility or drainage easement without prior written approval of the Director of Utilities or the Town Engineer, whichever is applicable.

D. Decorative fences are allowed to encroach upon a front yard setback. A decorative fence is a fence constructed of wood, wrought iron, vinyl, or brick which is no more than 3 feet tall. The amount of decorative fence allowed in a front yard is limited to no more than ten horizontal feet per parcel of land constructed in individual portions not exceeding five horizontal feet each. However, no fence or decorative fence is allowed to encroach upon public right-of-way.

E. Barbed wire, chicken wire, razor wire, concertina wire, or other similar security fencing made of metal or other material shall not be allowed within residential zoning districts.

F. Installation of a fence on undeveloped parcels is not allowed.

G. Any fence on land utilized for agricultural use as defined by this Ordinance is exempt from these provisions other than the prohibition against encroachment on public right-of-way.

3.190 Outside display and outside storage.

Outside display and outside storage are allowed within the corporate limits of the Town of Smyrna, Tennessee, subject to the following limitations:

A. Outside display is allowed within all Commercial and Industrial zoning districts. Outside display is limited to the sale of motor vehicles, boats, aircraft, farm equipment, patio furniture and equipment, storage buildings, carports, building materials, landscaping materials, and plants.

B. Outside storage is allowed in the C-2, C-3, I-2, and I-3 zoning districts. Outside storage must be located behind the principal structure away from the public right-of-way. In the case of a lot with multiple road frontages, outside storage must be located away from all public rights-of-way.

C. Outside storage must be adequately screened with fencing and/or a buffer strip. Items allowed to be stored outside include equipment and materials used in the everyday operations of the principal use on site. No repair work is allowed to take place outside. In any case where an area to be used for outside storage abuts a residential zoning district, consideration for another location on the lot for the outside storage to be located shall be given by the Planning Commission during site plan review.

3.200 Traffic Impact Studies.

The purpose of a traffic impact study is to determine the need for any improvements to the adjacent and nearby transportation system in order to maintain a satisfactory level of service, an acceptable level of safety, and to provide appropriate access to a proposed development.

A. Requirement. Traffic impact studies are required when a new development meets one of the following criteria:

1. The expected number of trips generated by the proposed development exceeds 1,000 vehicle trips per day or 100 vehicle trips per day during the highest peak hour as defined by the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation informational report or by a trip generation study of comparable land uses prepared by a qualified and experienced transportation professional.

2. If a proposed land use generates less than 1,000 vehicle trips per day or 100 vehicle trips per day during the highest peak hour, a traffic impact study may be required if:
   (a) the use is on a site located at or near existing or planned signalized intersections; or
   (b) the proposed development's location could create safety concerns due to topography, roadway geometry, or is near a known high crash/accident location.

B. Minimum Level of Service. The minimum goal for acceptable roadway function is a level of service (LOS) "D". This applies to both roadway segments and signalized intersections. For left turns at unsignalized intersections on arterial and collector streets as designated on the Major Thoroughfare Plan, the minimum goal is LOS "E". The policy goal for side street approaches to arterial and collector streets is LOS "E". These goals are to be utilized as screening tools to assist in the determination of whether or not the impact of individual projects might be mitigated. Projects whose study intersections include signalized intersections that operate at LOS "D" or better under background conditions may not be required to provide mitigation beyond that needed to facilitate access into and out of the project site and/or improve traveler safety adjacent to the project site. However, projects whose study intersections include signalized intersections that operate below LOS "D" under background conditions will require that the project provide mitigation in order to return vehicle delay to background conditions. This screening methodology also applies to unsignalized intersections where the LOS policy goal for left turns and side street approaches is LOS "E".

C. Types of Traffic Impact Studies. There are three levels of traffic impact studies based on the number of trips that a development is projected to generate at the peak hour. If the traffic generation is less than 100 trips at the peak hour, a Level I study may be required. If the traffic generation is 100-299 trips at the peak hour, a Level II study is required. If the traffic generation is greater than 300 trips at the peak hour, a Level III study is required.

1. Level I studies require analysis of each access that the development has to an existing roadway. This level of study can be a letter documenting the trip generation, trip distribution, projected traffic for the development build-out, capacity/LOS analyses, and an evaluation for auxiliary lanes and sight distances. This study should include a map of the study area with road summary; site plan including adjacent land uses, driveways and roadways; access design; queue lengths; and turn lane warrant analysis. This level of study is at the discretion of Town staff depending on site issues and the roads from which access is proposed.

2. Level II studies are complete impact assessments requiring analysis of each access that the development has to an existing roadway and to the first control point beyond those access points. A control point is an intersection controlled by a traffic signal or stop sign on the existing roadway onto which the development has access. For cases where a traffic control device does not exist, Town staff will determine the extent of the study. This level of study is a report with documentation of existing, background, and projected traffic conditions including trip generation, numerous figures illustrating the development of the traffic projections for a horizon year appropriate for the development, capacity/LOS analyses of the site access and significant adjacent intersections, evaluation for auxiliary lanes and sight distances for the site access, and recommendations for the mitigation of the development impacts. This study should include a map of the study area with road summary; site plan including adjacent land uses, driveways, and roadways; details of approved projects in the study area; future and project conditions analysis for nearby intersections; access design; queue lengths; and turn lane warrant analysis.

3. Level III studies are a more extensive Level II impact assessment addressing each access point, the first control point beyond each access point, and the nearest intersection with a collector or street of higher classification as shown on the Major Thoroughfare Plan. This level of study is a report with documentation of existing, background, and projected traffic conditions including trip generation, numerous figures illustrating the development of the traffic projections for a horizon year appropriate for the development, capacity/LOS analyses of the site access and significant adjacent intersections, evaluation for auxiliary lanes and sight distances for the site access, and recommendations for the mitigation of the development impacts. This study should include a map of the study area with road summary; site plan including adjacent land uses, driveways, and roadways; details of approved projects in the study area; future and project conditions analysis for nearby intersections; access design; queue lengths; accident/crash history; signal coordination analysis; signal warrant analysis; and turn lane warrant analysis.

4. Additional study requirements for each level may be required and evaluated on a case-by-case basis.

D. Traffic Impact Study Preparation. The traffic impact study shall be prepared by a registered Professional Engineer (P.E.) in good standing with the State of Tennessee and with specific training and experience in traffic engineering. The cover page shall be stamped and signed by the licensed engineer responsible for all of the work presented in the study.

E. Traffic Impact Study Submittal. A traffic impact study shall be submitted with an application for site plan and/or subdivision plat review by the Planning Commission. When a project will have multiple phases, it shall be submitted with the plan for the first phase. For a subdivision with multiple phases, it shall be submitted with the sketch plat. If an application is submitted for a planned development as described in Section 4.070, a traffic study will be required with the application based on the criteria found in Section 3.200 A.

F. Traffic Impact Study Expiration. Once a traffic impact study has been submitted and approved, it shall be effective for a period of five years. Projects that have a multiyear buildout and have demonstrated due diligence towards completing the proposed development shall be exempt from the study sunset requirement. Due diligence is defined as a project that has achieved at least 50% of the total project's buildout in units or size by the end of the five year period. If due diligence has not been demonstrated after the five year time period has elapsed, the traffic impact study shall be evaluated by Town staff. This evaluation is necessary to determine the degree to which background conditions have changed since the original traffic study was approved. If needed, a new traffic study will be required in order to provide information to help determine and decide if any additional mitigation measures are necessary.

3.210 All portions of a building or structure must be located within the boundaries of a parcel.

All portions of a building, accessory building, structure, or accessory structure as defined in Section 2.020 of this Ordinance, must be fully located within the boundaries of the parcel of land on which it is constructed. This includes any portions of said building, accessory building, structure, or accessory structure that would not normally be subject to minimum building setback requirements, such as HVAC units, soffits, bay windows, awnings or canopies having no supports other than provided by the wall to which it is attached, flag poles, retaining walls, etc.

ARTICLE IV - SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

SECTION

4.010 - Off-street parking requirements
4.020 - Off-street loading and unloading requirements
4.030 - Temporary use regulations
4.040 - Customary incidental home occupations
4.050 - Fall-out shelter restrictions
4.060 - Gasoline service station restrictions
4.070 - Planned development regulations
4.080 - Special provisions for party walls
4.090 - Development standards for mobile home parks
4.100 - Development standards for automobile wrecking, junk and salvage yards
4.110 - Reserved
4.120 - Reserved
4.130 - Performance standards regulations
4.140 - Minimum residential front yard requirements on turn-arounds of cul-de-sac streets
4.150 - Special provisions for residential occupancy in connection with mini-warehouse facilities
4.160 - Development standards as apply to duplex residential dwellings, as well as zero-lot line two-family dwellings
4.170 - Development standards as apply to multi -family dwellings
4.180 - Supplemental Side Yard Building Setback Requirements
4.190 - Supplementary Provisions for alternative financial services business to specific districts
4.200 - Supplemental Provision for Auto Towing Services Businesses

4.010 Off-street parking requirements.

In all districts, accessory off-street parking shall be provided in conformity with the requirements set forth in this section for all uses permitted by right or as a conditional use.

For an enlargement or modification resulting in a net increase in the floor area or other applicable unit of measure specified herein, the same requirements shall apply to such net increase in the floor area or other specified unit of measurement.

In the case of uses where the Planning Commission may be required to prescribe the number of parking spaces, it shall base its determination on such factors as the traffic generation of the facilities, the time of operation of such facilities, their location, and other such factors as affect the need for off-street parking as required under the conditional use provisions

Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One (1) vehicle space shall be at least one hundred seventy-one (171) square feet in size (9 feet x 19 feet) and such space shall be provided with vehicular access to a street or alley. The required number of parking spaces shall be provided on property owned by the relevant property owner. Such spaces shall be located where they are within easy walking distance and easily accessible to the services and use the service. Street or highway right-of-way shall not be utilized to meet the minimum number of required parking spaces. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

4.010.1 Number of Parking Spaces Required.

The number of off-street parking spaces shall be provided for the specified unit of measure (or fraction on one-half (1/2) or more thereof) for the following specified uses within the activity types indicated.

4.010.1.A Residential Activities

	Type of Residence	Parking Standard (Spaces Per Unit)
Permanent	Single-Family	4
	Single-Family: Attached/Townhome	4 + .5/Unit for Guest Parking
	Duplex/Zero Lot Line	4
	Triplex	4
	Quadruplex	4
	Multi-Family Apartments (3 or more)	2
	Mobile Homes	2
	Occupancy Primarily of Persons Over 60 Yrs.	1; Lot Size to Allow for 1.5 in the Future
	Upper Story Residential in the C-1 District	1.5
Semi-Transient	Boarding & Rooming House	1.5
	Bed & Breakfast	1.5

4.010.2.A Community Facility Activities

Type of Community Facility	Parking Standard
Administrative & Government	1 Space/300 SF of Gross Floor Area + 1 Space/3 Employees
Airport Passenger Terminals	1.5 Spaces for Each Passenger at Peak Hour of Air Travel
Aircraft Maintenance, Aircraft Storage Hangars	1 Space/1,000 SF Gross Floor Area
Air Cargo Terminals	1 Space/3,000 SF Gross Floor Area
Community Assembly	1 Space/2 Seats -or- 50% of Capacity in Persons (Whichever is Greater)

B. Educational Facilities

Type of Educational Facility	Parking Standard
Elementary & Middle School, Grades K-8	3 Spaces/Classroom + 10 Visitor Spaces
High School, Grades 9-12	4 Spaces/Classroom -or- 1 Space/5 Seats in Auditorium -or- 1 Space/2 Students, Teachers and Employees (Whichever is Greater)
Vocational or Trade Schools	4 Spaces/Classroom -or- 1 Space/5 Seats in Auditorium -or- 1 Space/2 Students, Teachers and Employees (Whichever is Greater)

C. Cultural and Recreational Services and Facilities

Type of Cultural/Recreational Facility	Parking Standard
Art Galleries, Libraries, Museums, Zoological and Botanical Gardens, Planetariums and Aquariums	1 Space/800 SF Gross Floor Area
Swimming Pools	30% of Capacity
Parks, Playgrounds and Playfields	10 Spaces/Acre of Land Devoted to Recreation + 1 Space/4 Spectator Seats
Recreation Centers and Gymnastics	50% of Capacity + 1 Space/2 Employees

D. Extensive Impact Type Facilities and Land Uses

Type of Extensive Impact Facility	Parking Standard
Correctional or Detention Institution	1 Space/Employee + 1 Space/Patrol Car + 1 Space/5 Inmates
Railroad, Bus, and Transit Terminals	1 Space/100 SF of Waiting Room
Railroad Yards and Other Transportation Equipment Marshalling and Storage Yards	1 Space/Employee
Stadiums, Sports Arenas, Auditoriums, and Bandstands	1 Space/4 Seats
Water & Sewage Treatment Plants	1 Space/Employee

E. Health Care Facilities

Type of Health Care Facility	Parking Standard
Centers for Observation or Rehabilitation, Convalescent Homes	1 Space/4 Beds + 1 Space/1,000 SF Gross Floor Area + 1 Space/Employee
Hospital	1.5 Spaces/Bed
Medical or Dental Clinic	5 Spaces/Staff Member, Doctor or Dentist -or- 2 Spaces/Treatment or Exam Room (Whichever is Greater)

F. Intermediate Impact Type Facilities and Land Uses

Type of Intermediate Impact Facility	Parking Standard
Colleges, Junior Colleges, and Universities	1 Space/Student + 1 Space/Teacher + 1 Space/Employee
Communications and Utility Services	2 Spaces/Facility Unless more Spaces are Required by the Planning Commission

G. Special Personal and Group Care Type Facilities and Land Uses

Type of Special Personal and Group Care Facility	Parking Standard
Association for Physically or Mentally Handicapped	1 Space/Employee
Day Care Homes	1 Space/5 Pupils + 1 Space/Employee not Living Within the Home
Day Care Centers	1 Space/Employee + 1 Space/5 Children
Nursing Homes	1 Space/Employee + 1 Space/2 Patients
Special Institutional Care Facilities	1 Space/12 Beds + 1 Space/Employee or Volunteer Working on the Largest Shift + 1 Space/Business Vehicle

H. Religious Facilities

Type of Religious Facility	Parking Standard
All Types of Religious Facilities	1 Space/3 Seats

4.010.3.A Commercial Activities

4.010.3.A(1) Uses Located on Freestanding Sites

The provisions of this subsection shall apply to uses that are located on individual lots of record where no parking is shared with any other use or activity.

	Type of Commercial Activity	Parking Standard (Spaces/SF Gross Floor Area, Unless Specified Otherwise)
	Animal Care & Veterinarian Services	1 Space/300 SF
Retail Trade	Apparel & Accessories	1 Space/150 SF
	Storage Shed & Dutch Barn, Automotive, Marine Craft, Mobile Homes, and Aircraft Sales, Rental and Delivery	25% of Gross Lot Area - Except for Automotive Sales, Rental and Delivery which Requires a Minimum of 50 Spaces
	Automotive Services & Repair	1 Space/450 SF
	Building Materials & Farm Equipment	1 Space/1,000 SF
	Contract Construction Sales	1 Space/500 SF
	Contract Construction Services	1 Space/300 SF
	Convenience Retail Sales & Services	1 Space/100 SF
	Equipment Repair Services	1 Space/500 SF
Entertainment and Amusement Services	Art Galleries (Commercial)	1 Space/400 SF
	Motion Picture Theaters, Theaters	1 Space/4 Permanent Seats + 1 Space/25 SF of Space where Temporary Seats are Utilized
	Bowling Alleys & Billiard Parlors	5 Spaces/Alley -or- 5 Spaces/2 Pool Tables (Whichever is Applicable)
	Coin Operated Amusement or Arcade	1 Space/250 SF
	Commercial Sporting Facilities	1 Space/Employee + Other Spaces as Determined by the Planning Commission
	Dance Halls, Studios and Schools, and Skating Rinks	1 Space/100 SF
	Exhibition Halls & Commercial Auditoriums	40% of Maximum Capacity in Persons
	Gardens (Botanical & Zoological)	1 Space/Employee + Other Spaces as Determined by the Planning Commission
	Marinas, Boat Docks & Boat Rental	1 Space/Employee + Other Spaces as Determined by the Planning Commission
	Recording & Motion	1 Space/Picture Production each 3 Studio Seats
	Theatrical Producers	1 Space/Band, Orchestras and each 3 Entertainer Seats
	Riding Stables	Minimum 5 Space + 1 Space/Employee
	Resorts & Group Camps	1 Space/Employee + Other Spaces as Required by the Planning Commission
	Financial & Real Estate Services	1 Space/200 SF + 1 Space/Employee
	Consulting & Administrative Services	1 Space/400 SF
	Food & Beverage Service - General (Inside Service Only)	1 Space/100 SF

	Food & Beverage Service - General (Containing Drive-Through Facilities)	1 Space/100 SF
	Food and Alcoholic Beverage Services	1 Space/100 SF
	General Business Services	1 Space/400 SF + 1 Space/Employee
	Communications Services	1 Space/300 SF
General Personal Services	Funeral & Crematory Services	1 Space/100 SF -or- Where a Chapel is Provided, 1 Space/4 Seats + 1 Space/25 SF of Floor Area where Temporary Seats are Utilized (Whichever is Greater)
	All Other Personal Services	1 Space/200 SF
General Retail Trade	Department Store	1 Space/250 SF
	Variety Store	1 Space/250 SF
	Miscellaneous General	1 Space/250 SF
	Merchandise Store	1 Space/250 SF
	Group Assembly	1 Space/4 Permanent Seats + 1 Space/25 SF of Space where Temporary Seats are Utilized
	Microbrewery/Microwinery/Microdistillery	1 Space/300 SF
	Professional Services - Medical	1 Space/300 SF
	Professional Services - Non-Medical	1 Space/400 SF
	Transient Habitation (Motels & Hotels)	1 Space/Unit in a Building Servicing Transient Guests

4.010.3A(2) Uses Located Within Commercial Complexes

Where two (2) or more commercial activities are grouped together on a single site or in any other configuration that involves the use of shared or common parking facilities, the parking requirements for such uses shall be calculated as provided herein.

SHOPPING CENTERS

Size of Complex (Gross Square Footage)	Parking Standard
0 - 400,000 SF	5 Spaces/1,000 SF of Gross Leasable Area
400,000 - 600,000 SF	5.5 Spaces/1,000 SF of Gross Leasable Area
600,000 SF and Above	6 Spaces/1,000 SF of Gross Leasable Area

ALL OFFICE COMPLEXES

Office Complexes	Parking Standard
All Types of Office Complexes	4.5 Spaces/1,000 SF of Gross Leasable Area

4.010.3.A(3) Shared Parking

Where two (2) or more residential, commercial, or industrial activities are located in the same development and where, in the opinion of the Planning Commission during site plan review, a more efficient parking arrangement can be made by allowing the sharing of parking among the different activities, the sharing of parking may be allowed. This could occur when activities are such that the peak parking needs are at different times of the day and/or week and the total parking needed for the total development is actually less than a strict calculation under this Article would require. Calculation of the required parking shall be the required parking for the highest intensity activity, plus 10 (ten) percent.

This could occur when activities are such that the peak parking needs are at different times of the day and/or week and the total parking needed for the total development is actually less than a strict calculation under this Article would require. Calculation of the required parking shall be the required parking for the highest intensity activity, plus 10 (ten) percent.

4.010.4.A Manufacturing and Industrial Activities

Type of Manufacturing/Industrial Activity	Parking Standard
General	1 Space/1,000 SF of Gross Floor Area -or- 1 Space/Each Employee During Largest Shift (Whichever is Greater)
Warehousing, Foods or Freight Transport, and Storage	1 Space/3,000 SF of Gross Floor Area + 1 Space/7,000 SF of Open Storage; Minimum of 5 Spaces to be Provided
Self-Service Storage Facility	1 Space/3,000 SF of Gross Floor Area; (2 Spaces Shall be Provided in Addition to the Above Requirement if an Accessory Apartment is Present)

Climate Controlled Self-Service Storage Facility	1 Space/50 Units + 5 Spaces
Manufacturing: Automobile Wrecking Yards, Scrap Metal Processing, Junk Yards	1 Space/1,000 SF of Gross Floor Area -or- 1 Space/8,000 SF of Gross Lot Area (Whichever is Greater)

4.010.5.A Agricultural, Resource Production, or Extractive Activities

Type of Agricultural, Resource Production, or Extractive Activity	Parking Standard
Agricultural Services	1 Space/Employee; and for Veterinary Service, 1 Space/300 SF of Gross Floor Area
Commercial Feed Lots & Stockyards	As Determined by the Planning Commission
Mining, Drilling, and Quarrying	1.5 Spaces/Employee
Plant and Forest Nurseries	5 Spaces + 1 Space/Employee + 1 Space/5 Acres

4.010.6.A Other Land Uses

For buildings and land uses not referred to in the pre-cited activity classifications and specifically listed in the corresponding use classification listings cited within Section 2.030, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

4.010.7.A Extension of Parking Space into a Residential District

Required parking space may be extended one hundred (100) feet into a residential district, provided that:

A. The parking area adjoins a commercial or industrial district.

B. The parking area has its only access to or fronts upon the same street as the property in the commercial or industrial districts for which it provides the required parking spaces.

C. The parking area is separated from abutting properties in the residential districts by a buffer strip.

4.010.7.B Requirements for Design of Parking Lots

A. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

B. Each parking space shall be no less than one hundred seventy-one (171) square feet in area.

C. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 3.090 of this ordinance.

D. The parking lot shall be designed in such a manner as to provide adequate drainage and to eliminate the possibility of stagnant pools of water.

E. There shall be a parking aisle at least twenty-two (22) feet wide serving all ninety- (90) degree and sixty (60) degree angled parking spaces. For all thirty (30) and forty-five (45) degree angled parking spaces there shall be a minimum parking aisle of sixteen (16) feet in width.

F. All off-street parking areas containing five (5) spaces or more shall be surfaced with asphalt, concrete, or other hard surfaced dustless material and so constructed to provide for adequate drainage for both on and off-site and to prevent the release of dust. All parking spaces shall be clearly marked.

G. No parking space(s) serving any residential development shall be located further than sixty (60) feet from the respective dwelling unit such space(s) serve.

4.020 Off-street loading and unloading requirements

Every building or structure hereafter constructed and used for business or trade involving the receiving or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public or private alley, or if there is no alley to a public street. The minimum required spaces for this

provision shall be based on the total usable floor area of each principal building according to the following table:

Total Usable Floor Area for Principal Building	Spaces Required (See ARTICLE II for Definition)
0 - 9,999 SF	One (1) Space
10,000 - 14,999 SF	Two (2) Spaces
15,000 - 19,999 SF	Three (3) Spaces
Over 20,000 SF	Four (4) Spaces + 1 Space/Each Additional 20,000 SF

Off-street Loading and Unloading Requirements for Industrial Uses:

Total Usable Floor Area for Principal Building	Spaces Required (See ARTICLE II for Definition)
5,000 - 40,000 SF	One (1) Space
40,000 - 100,000 SF	Two (2) Spaces
Each Additional 100,000 SF or Major Fraction Thereof	One (1) Space

The Board of Zoning Appeals may reduce or increase this requirement in the interest of safety where unusual or special conditions are due consideration.

4.030 Temporary use regulations.

The following regulations are necessary to govern the operation of certain necessary or seasonal use non-permanent in nature. Application for a Temporary Use Permit shall be made to the Building Official. Said application shall contain a graphic description of the property to be utilized and a site plan, to determine yard requirements setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

A. Carnival or Circus: Carnivals or circuses are allowed in the C-2, I-1, I-2, or F-1 Districts; but only with prior approval from the Board of Zoning Appeals (BZA). Such permit shall be issued

for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided. The BZA may consider for approval any carnival or circus that meets the following minimum requirements:

1. The carnival/circus and all associated vehicles, rides, and structures shall meet the minimum building setbacks in the zoning district in which it is to be located.

2. The area to be utilized for the carnival/circus shall consist of a paved, concrete, or smooth graveled surface; carnivals/circuses may be permitted on grass areas but only upon specific approval by the BZA;

3. A minimum of four portalets (portable toilets) or equivalent permanent bathroom facilities shall be provided for use by patrons of the carnival/circus;

4. The applicant shall obtain written consent from the owner of the property for use by the carnival and a copy shall be filed with the Town Planner or designee;

5. The applicant shall provide certification from the appropriate agency with the State of Tennessee that all rides have been inspected in accordance with the appropriate State requirements and guidelines. This shall be filed with the Town Planner or designee;

6. The applicant shall provide proof of insurance from the carnival/circus operator as well as from the owner of the property where the carnival/circus will be located;

7. Traffic control measures may be required by the BZA including a requirement that the applicant make provisions for directing traffic during anticipated periods of peak operation or attendance; and,

8. Other additional standards, including requirements for the duration of the carnival/circus and the hours of operation, may be required in order to assure the compatibility of the carnival/circus with other property in the vicinity.

B. Christmas Tree Sale: May obtain a thirty-(30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.

C. Temporary Buildings: In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions;

however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon expiration of the Temporary Use Permit, whichever occurs sooner.

D. Religious Tent Meetings: In any commercial district, except the P-O, Professional and Office District, a temporary structure may be permitted to house a religious meeting. Such permit shall be issued for not more than a thirty-(30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

E. Temporary Dwelling Unit In Cases of Special Hardship: In any residential district, a Temporary Use Permit may be issued to place a mobile home (double-wide excluded) temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomenal. The purpose of such placement temporarily shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Smyrna Utilities System and the appropriate State agency when applicable, approving the water supply and sewerage disposal systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of eighteen (18) months.

F. Temporary Outdoor Sales of Food or Retail Merchandise:
Temporary outdoor sales of food or retail merchandise not accessory to the actual principal use of a property shall be permitted in the C-2 zone subject to the additional standards set forth in Article VII, Section 7.061.16. For the purposes of this section, "food" does not include food and beverages prepared on site for consumption and "retail merchandise" means any consumer item that is represented to be new or used. It shall be unlawful for any vendor to conduct his or her trade within the corporate limits without first obtaining a transient vendor permit. Any owner of real property upon which a vendor intends to conduct business must obtain a separate property owner permit.

A Property Owner permit shall be valid until the end of the current calendar year of application. A citation may be issued to the property owner and/or the on-site business employee for failure to comply with any Town of Smyrna Municipal Zoning Ordinance an/or Town of Smyrna Municipal Code requirements. Any temporary outdoor sales of food or retail merchandise located on property owned or leased by the Town of Smyrna are exempt from these requirements. In addition, temporary outdoor sales are allowed in any zone when a

company or non-profit entity has a private event with no sales to the general public. However, if there is a permanent commercial building on a site, temporary outdoor sales are allowed by right provided the following conditions are met:

1. All merchandise is located so that all fire codes are met;
2. The merchandise, tents, carts, and trash shall be removed at the end of each day;
3. No cart, trailer or other vehicle capable of being operated or towed on a public roadway are utilized.
4. Transient Vendor Permit shall be obtained by any vendor meeting the above listed definition of outdoor sales of food or retail merchandise.
5. Permits are obtained by the property owner or their authorized agent from which the sales are to be conducted. The property owner assumes all responsibility and liability for vendors meeting Ordinance requirements. This permit should be conspicuously displayed in the front window of the principal structure on site.

G. Mobile Food Vendors: Mobile food vendors are allowed within the Town of Smyrna in compliance with the requirements detailed below.

1. Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section.
   a. Canteen truck means a vehicle that operates to provide food services to workers at locations where access to such services is otherwise unavailable or impractical (e.g., a construction site); from which the operator sells food and beverages that require no on-site preparation or assembly other than the heating of pre-cooked foods; and is not advertised in any form to the general public except by virtue of signage on the vehicle. Products sold from canteen trucks may include fruits, vegetables, pre-cooked foods such as hot dogs, pre-packaged foods, and pre-packaged drinks.
   b. Commissary means an establishment or facility in a fixed location that is used for the storage of supplies for a mobile food service vehicle, the preparation of food to be sold or served at a mobile food service vehicle, or the cleaning or servicing of a mobile food service vehicle.
   c. Edible food products means those products that are ready for immediate consumption, including prepackaged food and food cooked, prepared or assembled on-site. The term "edible food products" does not include fresh produce unless the produce has been prepackaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption.
   d. Food truck means a vehicle from which edible food products are cooked, prepared or assembled with the intent to sell such items to the general public, provide further that food trucks may also sell other edible food products and beverages that have been prepared or assembled elsewhere. Food truck operators may market their products to the public via advertising, including social media.

e. Food truck rally means a coordinated and advertised gathering of more than two mobile service vehicles in one location on a date certain with the intent to serve the public.
f. Food truck rally permit means a permit issued by the Town for a food truck rally.
g. Ice cream truck means a vehicle from which the operator sells only pre-packaged frozen dairy or water-based food products and pre-packaged beverages. For purposes of this section a non-motorized cart from which such products are sold shall be considered an ice cream truck.
h. Location means any single property parcel or any combination of contiguous parcels that are owned or controlled by a single entity or affiliated entities.
i. Mobile food service vehicle means a food truck, canteen truck, or ice cream truck and includes any portable unit that is attached to a motorized vehicle and intended for use in the operation of a food truck, canteen truck, or ice cream truck.
j. Mobile food vendor permit means a permit issued by the Town for the operation of a mobile food service vehicle.
k. Operate means to sell food, beverages, and other permitted items from a mobile food service vehicle and includes all tenses of the word.
l. Operator means any person operating or permitted to operate a mobile food service vehicle.
m. Permit administrator means the Town Planner or a person designated by the Town Planner to oversee the issuance, suspension, and revocation of mobile food vendor permits and food truck rally permits.
n. Vehicle means every device in, upon, or by which any person or property may be transported or drawn upon a street, including devices moved by human power.
o. Property Owner permit means a permit issued by the Town to a property owner authorizing use of their real property for the operation, display, or sales activities of a mobile food vendor.

2. General Provisions.
   a. It is a violation to operate a mobile food service vehicle at any location except in compliance with the requirements of this Ordinance.
   b. Mobile food service vehicle operators must comply with all federal, state, and local licensing and permitting regulations and all business tax, sales tax and other tax requirements.
   c. Mobile food service vehicles may not operate within the public right-of-way or on any Town property except as may be specifically allowed by the Town or as further detailed in this Ordinance. No unattended food truck shall be left at any time in the right-of-way or parked on any other public property overnight.
   d. Mobile food service vendors shall not block fire lanes, designated traffic lanes, or ingress or egress to a building or street.
   e. The Town Manager is hereby authorized to promulgate rules and regulations supplemental to the provisions herein for the purposed of carrying out the

administration and enforcement of such provisions.

3. Locations and Hours of Operation.
   a. Food Trucks
      (1) Private residential property. A food truck with a current mobile food vendor permit may operate on private property within residential districts subject to the following additional requirements:
         a) Written permission from the property owner is obtained, which shall be made available immediately to the Town upon request. If a homeowner's association exists and is the property owner or if the location is on private property, any restrictions or requirements of the homeowner's association must be met.
         b) A food truck may not operate on an unimproved parcel.
         c) No more than two food trucks may operate at any location.
         d) A food truck must leave the site at the end of each day with all trash and debris removed.
         e) Hours of operation. In residential districts, food trucks may operate from 11 AM to 8 PM unless otherwise restricted further by the property owner. The Town may permit extended hours of operation for a food truck rally.
      (2) Private nonresidential property. A food truck with a current mobile food vendor permit may operate on private property within the C-2 district subject to the following additional requirements:
         a) Written permission from the property owner is obtained, which shall be made available immediately to the Town upon request.
         b) A food truck may not operate on an unimproved parcel.
         c) No more than two food trucks may operate at any location unless a food truck rally permit has been issued.
         d) Hours of operation. In the C-2 district, food trucks may operate utilizing the same hours as the business on site, unless such business is open 24 hours per day, in which case the food truck may operate from 7 AM to 9 PM unless otherwise restricted further by the property owner. The Town may permit extended hours of operation for a food truck rally.
         e) A food truck may operate on a singular parcel for no more than 90 days in any calendar year to be permitted in 30 consecutive calendar day increments.
         f) A food truck must have parking available on site.
         g) A food truck may remain on the property overnight, provided all trash and debris are removed daily and the vehicle remains in compliance with all applicable codes at all times.

h) The Town reserves the right to revoke permits for the remainder of the calendar year if a mobile food vendor or property owner receives two (2) citations of Town regulations.

i) No mobile food vendors shall engage in business, sales, or display within the C-2 district until the real property owner has been issued a separate Property Owner Permit from the Town.

b. Canteen trucks. A canteen truck can operate on private property within any zoning district subject to the following additional requirements:
   (1) Written permission from the property owner is obtained, which shall be made available immediately to the Town upon request.
   (2) The property is undergoing construction activity. In such case, if streets are a part of the construction of the site, a clearly delineated location in which has boundaries defined by temporary fencing is required.
   (3) Hours of operation are 7 AM to 6 PM unless otherwise restricted further by the property owner. A canteen truck may operate no longer than one hour per day at any one location.

c. Ice cream trucks. An ice cream truck can operate from the public right-of-way at any one location for no more than 15 minutes before relocating to another location not less than one-quarter mile from the previous location. These trucks must park facing the same direction as traffic at a distance of not more than 18 inches from the curb face or edge of pavement and with the service window facing the curb face or edge of pavement. Ice cream trucks can also operate on private property subject to the provisions of Section 4.030G.3.a.

4. Operating Requirements.
   a. Vehicle requirements.
      (1) Mobile food service vehicles must be specifically designed and constructed for the purposed of preparation and sale of the specific type of food being sold and may not operate in any manner that is not compatible with the purpose for which the vehicle has been designed and constructed.
      (2) Mobile food service vehicles must be licensed and equipped in accordance with the rules and regulations of all local, state, and federal agencies having jurisdiction over such vehicles. The preparation and sale of food from mobile food service vehicles must comply with all applicable local, state, and federal laws and regulations.
   b. No mobile food service vehicle may operate in a location that:

(1) Impedes the ingress to or egress from another business or otherwise causes undue interference with access to another business; or
(2) Blocks the lawfully placed signage of another business; or
(3) Prevents access to another business by emergency vehicles.

c. If on or adjacent to a sidewalk, the components of a mobile food service vehicle's operations, including signage, seating areas, and patron queue may not reduce the clear pedestrian path of travel on the sidewalk to less than six feet. All awnings or canopies of the vehicle shall be at least six feet, eight inches above the sidewalk.

d. All cooking, heating and electrical equipment and all cooking practices must comply with applicable safety regulations, including applicable fire and electrical codes and any other safety requirements imposed by the Town's fire and codes departments. No cooking equipment other than a heating apparatus compliant with applicable safety regulations may be used in a canteen truck. No cooking or heating equipment may be used in an ice cream truck. All mobile food service vehicles must be equipped with fire extinguishers that are inspected annually and certified as meeting National Fire Protection Association standards. No power cord, cable or equipment shall be extended across any public street, sidewalk or other public property.

e. All mobile food service vehicles must comply with the performance standards found in Section 4.130 of this Ordinance.

f. No mobile food service vehicle may use stakes, rods or any other method of support that must be drilled, driven or otherwise fixed into or onto asphalt, pavement, curbs, sidewalks, or buildings.

g. To prevent discharges into waterways, drainage systems, or public sewer systems, mobile food service vehicles shall comply with stormwater regulations of the Town and all regulations regarding prohibited discharges to public sewers. In addition, each operator shall have a spill response plan to contain and remediate any discharge from the vehicle.

h. The area of a mobile food service vehicle operation must be kept neat and orderly at all times. Operation of a mobile food service vehicle in an area is deemed acceptance by the operator of the responsibility for cleanliness of the area surrounding the operations (not less than 50 feet from all parts of the vehicle) regardless of the occurrence or source of any waste in the area. During each period of operation at a location, the operator must provide proper trash receptacles for public use that are sufficient and suitable to contain all trash generated by the mobile food service vehicle. All trash receptacles must be emptied when full, and all waste must be removed prior to departure of a mobile food service vehicle from a location.

i. Mobile food service vehicles shall serve pedestrians only. No drive-through service is allowed.

j. Signage for each mobile food service vehicle shall be limited to signs on the exterior or interior of the vehicle and one sandwich board sign. All signs on the exterior of the vehicle shall be secured and shall not project more than six inches from the vehicle. One sandwich board sign may be placed outside the mobile food service vehicle, provided that the base of a sandwich board sign must be placed no further than two feet beyond the mobile food service vehicle. Sandwich board signs shall not exceed eight square feet per side or 48 inches in height and shall not obstruct or impede pedestrian or vehicular traffic.

k. Food trucks may not sell alcoholic beverages, except as may be specifically allowed by applicable state law. Canteen trucks and ice cream trucks are prohibited from selling alcoholic beverages.

l. Insurance.
   (1) Mobile food service vehicles must maintain all motor vehicle insurance coverage required by applicable state and federal laws and regulations.
   (2) Mobile food service vehicles operating on Town property shall at all times maintain such further insurance coverage as may be required by the Town Manager. In the event the required coverage is not properly maintained, permission to operate on Town property will be immediately revoked.

m. Any food preparation equipment outside of the mobile food service vehicle shall not obstruct vehicular or pedestrian traffic, and the use and operation of such equipment shall not create safety hazards for the public. Food shall not be served to customers directly from any outside food preparation equipment. Any smoker or other exterior equipment that generates heat shall be surrounded with at least three traffic safety cones.

n. A commissary, as defined in this section, shall not be located in any residential zoning district unless permitted as a home occupation in compliance with Section 4.040 of this Ordinance.

5. Mobile Food Vendor Permits.

a. The designated permit administrator shall oversee the issuance, suspension, and revocation of mobile food vendor permits. No mobile food service vehicle may operate within the Town without a mobile food vendor permit issued by the Town. A mobile food vendor permit authorizes the holder only to engage in the vending of products from a mobile food service vehicle in compliance with this Ordinance and as specified on the permit. The mobile food vendor permit must be prominently displayed when the mobile food service vehicle is in operation. This section shall not apply to contractual arrangements between a mobile food service vehicle operator and any individual, group or entity for pre-arranged catering at a specific location for

a period of not more than four hours, provided that the mobile food service vehicle is not open to or serving the general public. This section shall also not apply when a mobile food service vehicle operator is operating as a vendor for a Town sponsored event. A mobile food service vehicle operator that also operates a restaurant within the Town limits of the Town of Smyrna which is located in a permanently constructed building shall be exempt from the payment of a mobile food vendor permit fee, though all other applicable provisions of this ordinance are required to be met.

b. Application.

(1) In order to obtain a mobile food vendor permit, a mobile food service vehicle operator must complete an application form provided by the Town. The application shall include the following information:

a) Name and address of the owner of the vehicle.
b) Name and address of the operator of the vehicle.
c) Color photographs of the exterior (front, side, and back) of the vehicle in its final condition and with all markings under which it operate.
d) A copy of the vehicle license and registration form reflecting the vehicle identification number (VIN) of the vehicle.
e) A copy of the state or county health department license or permit applicable to mobile food providers.
f) A copy of any alcoholic beverage license, if applicable.
g) A copy of the operator's business license.
h) A certificate of insurance coverage, including required motor vehicle insurance coverage.
i) Name and physical business address of the site where sales are to be conducted during the thirty (30) day permit period.
j) A signed acknowledgement that the operator has read this Ordinance and will comply with all applicable requirements herein.
k) Any additional information required by the permit administrator.

(2) Submittal of an application for a mobile food vendor permit must be accompanied by payment of an application fee as set forth in the fee schedule adopted by the Town Council, provided that for any mobile food service vehicle previously found to be operating within the Town without a current permit, the application fee shall be as set forth in the fee schedule adopted by the Town Council.

(3) Each mobile food vendor permit holder shall have an ongoing duty to provide the Town with notice of any change to any of the information submitted with its permit application, including current photographs of the mobile food service vehicle in the event of any change in the appearance of or signage on the vehicle.

c. Each mobile food vendor permit shall be issued upon verification that an application has been completed in accordance with the requirements of this Ordinance, except that no such permit will be issued to an operator whose permit has been revoked within the preceding 12 months, or to any person who intends to operate the same mobile food service vehicle for which the operator's permit has been revoked within the preceding 12 months. If the permit administrator denies the application, such denial shall be in writing and provided to the applicant within 15 days of the receipt of the application.

d. All mobile food vendor permits shall expire thirty (30) days after permit issuance. A mobile food vendor permit may be renewed for the next thirty (30) day period, provided that all applicable requirements are met and the permit is not currently suspended or has not been revoked within the preceding 12 months. The fee for renewal shall be the same as the application fee for a new mobile food vendor permit.

e. A mobile food vendor permit may not be transferred except as part of the sale of a controlling interest in a business holding the permit or a sale of substantially all the assets of a business holding the permit. The operator of the mobile food service vehicle shall notify the Town within ten days of any such sale and shall update any information that has been changed since the submittal of the application for the mobile food vendor permit.

f. If an operator of a mobile food service vehicle has not previously obtained a mobile food vendor permit and is found to be operating within the Town, staff may authorize the operator to continue operation for not more than two hours, provided that the operations must comply with the location and hours of operation requirements set in this Ordinance. Thereafter, the operator shall not operate a mobile food service vehicle with the Town without first paying the required application fee and obtaining a mobile food vendor permit as required by the Ordinance.

g. A mobile food vendor permit may be issued which is valid for one calendar day. A separate permit would be required for each calendar day the mobile food service vehicle operator wishes to operate. A fee will be required for issuance of a one day permit, and all applicable provisions of this ordinance are required to be met.

6. Food Truck Rally Permits.

a. In order to obtain a food truck rally permit, the entity or organization hosting the food truck rally must complete an application provided by the Town. The application shall include the following:

(1) Name and address of the owner of the entity or organization hosing the food truck rally.

(2) Name of person in charge of the food truck rally and a telephone number that may be used to contact such person during the food truck rally.
(3) Name and address of the owner of the property on which the food truck rally will be held, along with the property owner's written authorization.
(4) A site plan of the property on which the food truck rally will be held, showing proposed location of each food truck; location of any portable restroom facilities, if applicable; and location of any stages, tents, seating area and any other facilities, structures, or equipment to be used in conjunction with the food truck rally.
(5) Written description of the plans for the food truck rally including parking locations, traffic control plans, and the anticipated hours of operation.
(6) A list of all mobile food service vehicles participating in the food truck rally, along with confirmation that each vehicle operator has obtained or will obtain a mobile food vendor permit from the Town. A temporary mobile food vendor permit may be obtained from the permit administrator if a vehicle operator does not have a mobile food vendor permit. This permit shall be valid only during the time period covered by the food truck rally permit, at the location of the food truck rally, shall be subject to all other provisions of this section, and shall require a fee as set forth in the fee schedule adopted by the Town Council.
(7) The application shall include payment of the permit fee as set forth in the fee schedule adopted by the Town Council.
(8) An application shall be submitted at least 15 calendar days prior to the date the food truck rally is proposed to be held.

b. The Town may require posting of a financial guarantee prior to issuance of a food truck rally permit to ensure that the premises will be cleared of all debris during and after the food truck rally.
c. All food truck rally permits shall be subject to the following conditions:
(1) All participating mobile food service vehicles must hold a valid mobile food vendor permit.
(2) All lighting and electrical equipment brought to the site shall be subject to applicable permitting and inspection requirements, including payment of applicable fees.
(3) All tents, stages, and other temporary facilities shall be subject to safety inspections by the Town before use.
(4) The location shall be cleared of all trash and debris at the end of the event and cleared of all temporary structures and restored to its previous condition within 48 hours after the end of the event.

(5) Traffic control and pedestrian safety in the vicinity of the event shall be the responsibility of the permittee of the event. The Town may require that Town forces be employed to assist with traffic control and pedestrian safety. Costs anticipated by the Town for these services shall be estimated by the Town and paid at least ten days in advance by the permittee as a condition of the permit. Following the event, any overpayment shall be refunded to the permittee, and any underpayment shall be billed to the permittee.

(6) In order to protect the health, safety, and welfare of the general public, to mitigate the potential impacts of a food truck rally and to ensure compliance with applicable laws and regulations, the Town may impose additional conditions and restrictions on the issuance of a food truck rally permit. Such conditions and restrictions may include, but are not limited to, hours of operation, layout, parking and security, and insurance requirements.

7. Enforcement of these provisions of this section shall be as set forth in Article VII of this Ordinance. Violations of this section may lead to the revocation of a mobile food vendor permit or a food truck rally permit by the permit administrator.

8. Property Owner permit.
   a. A Property Owner permit shall be valid for a period of not more than ninety (90) days within a one (1) calendar year period. A citation may be issued to the property owner and/or the on-site business employee for failure to comply with any Town of Smyrna Municipal Code requirements. The Property Owner permit shall be issued from the Town for a specified parcel prior to business, sales, or display of a mobile food vendor within the C-2 district.
   b. Application.
      (1) In order to obtain a Property Owner permit – Mobile Food Vendor, an owner of real property must complete an application form provided by the Town. The application must be completed in its entirety and shall include the following information:
         a) Applicant name.
         b) Applicant home address.
         c) Business address.
         d) E-mail address.
         e) Phone number.
         f) Applicant signature and date.
         g) Stamp and signature of a non-expired Notary Public.

(2) Submittal of an application for a Property Owner permit – Mobile Food Vendor must be accompanied by:
   a) Payment of an application fee as set forth in the fee schedule adopted by the Town Council.
   b) A site plan detailing the layout of the site with parking spaces shown and the designated location for the mobile food vendor. The plan must demonstrate that adequate parking is provided for all existing on-site businesses in addition to the vendor, in accordance with the parking standards established in the Town of Smyrna Municipal Zoning Ordinance.

(3) Each owner of real property permit holder shall have an ongoing duty to provide the Town with notice of any change to any information submitted with its permit application.

c. Permits are obtained by the property owner or their authorized agent from which the sales are to be conducted. The property owner assumes all responsibility and liability for vendors meeting Zoning Ordinance or Municipal Code requirements. This permit should be conspicuously displayed in the front window of the principal structure on site.

H. Yard Sales: In any residential district, yard sales as defined in Section 2.020 are permitted but are limited to four (4) events per residential address per year. Each yard sale may not exceed three (3) consecutive days or two (2) consecutive weekends. A joint sale conducted by multiple home owners at one location shall be considered as one (1) yard sale event for each participating household.

4.040 Customary incidental home occupations.

Customary incidental home occupations are allowed in all residential districts, subject to the following limitations:

1. There shall be no exterior display or storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, except for an announcement sign of not more than four (4) square feet in area.

2. No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be generated.

3. No such traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.

When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine the legality. However, activities such as dancing instruction, band instrument instruction, except piano instruction, tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

4.050 Fall-out shelter restrictions.

Fall-out shelters are permitted as principal or accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Areas of underground fall-out shelters extending not more than thirty (30) inches above the general ground level of the graded lot shall not be included in computations of lot coverage by all buildings. The Board of Zoning Appeals may waive side and rear yard setback requirements to permit construction of joint shelters by two or more property owners, provided, however, that side and rear yard setback requirements shall be met where property involved in the joint proposal abuts or adjoins property not included in the proposal.

4.060 Gasoline Service Station Restrictions.

The following regulations shall apply to all gasoline service stations:

A. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.

B. Gasoline pumps shall not be located closer than twenty-five (25) feet to any street right-of-way line.

C. Sign requirements as established in ARTICLE IV, SECTION 4.080, shall be met.

4.070 Planned Development Regulations.

The purpose and intent of this section is to encourage the total planning of tracts of land consistent with the long-range general comprehensive plan of the Town, encourage innovations in design and the application of sound design principles, provide a framework within which an effective relationship of different land uses and activities can be planned on a total basis, provide a harmonious relationship with surrounding development, minimizing such influences as land

use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities, and provide a means of developing areas of physiographic or other physical features to enhance natural beauty and other attributes. This section shall only be used for planned developments upon determination by the Planning Commission and Town Council that the proposed development is in harmony with the purpose and intent as stipulated.

4.071 General provisions.

The following general provisions apply to all planned developments.

A. Ownership and Division of Land: No tract of land may be considered for or approved as a planned development unless such tract is under single ownership. The holder of a written option to purchase, any governmental agency, or a redeveloper under contract shall be considered landowners for purposes of this section. Unless otherwise provided as a condition of approval of a planned unit development, the landowner of an adopted planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and use and maintain it in strict conformance with the adopted final master development plan.

B. Relationship to Subdivision Regulations: The uniqueness of each proposal for a planned development may require that there be modification from the specifications established in the subdivision regulations adopted by the Smyrna Municipal Planning Commission. Modifications may be incorporated only with the approval of the Planning Commission.

C. Common Open Space and/or Dedicated Cross-Easements:

1. In all planned developments there shall be a dedication of land for common open space and dedicated cross-easements for utilities.

2. The location, shape, site, and character of the common open space shall be reviewed in detail.

3. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development considering its size, density, expected population, topography, and the number and type of dwellings or structures to be provided.

4. Common open space must be suitably improved for its intended uses but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.

5. The use and improvements of common open space must be planned in relation to any existing or proposed public or semi-public open space which adjoins or which is within close proximity to the perimeter of the planned development.

6. All land shown on the approved planned development as common open space, when not retained by the developer, must be conveyed under one of the following options:

   (a) It may be conveyed to a public agency, which will agree to maintain the common open space and any building, structures, or improvements, which have been placed on it.

   (b) It may be conveyed to a trustee(s) provided in a deed of record which establishes an association of similar organization for the maintenance of the planned development. The common open space may be conveyed to the trustees subject to the approval of the Planning Commission and Town Council which will result in the restriction of the common open space to the uses specified on the approved planned development, and which will provide for the maintenance of the common open space in a manner which assures its intended purpose.

7. No common open space may be put to any use not specified in the final development plan unless the approved planned development has been amended to permit that use. However, no change of use authorized may be considered as a waiver of enforcement.

8. The developer or any organization established for the ownership and maintenance of any common open space shall not dispose of any common open space by sale or otherwise (except to an organization established to own and maintain the common open space) without first offering to dedicate the same to the Town. Said dedication must be accepted by the Smyrna Town Council.

9. In the event that the developer or the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the planned development fail to maintain the common open space in reasonable order and condition in accordance with the adopted master development plan, the Building Official may serve written notice upon such organization and/or the owners or residents of the planned development. If deficiencies or maintenance are not corrected after thirty (30) days, the Building Official shall call upon any public or private agency to maintain the common open space. The cost of such maintenance by such agency shall be assessed proportionally against the properties within the planned development that have a right of enjoyment of the common open space, and shall become a lien on said properties.

10. The common open space of any planned development that contains any residential units shall conform with the following minimum standards:

    a. A minimum of 15% of the gross acreage of the site shall be set aside as common open space. This space may be unimproved and passive in nature and could include steep slopes, floodplains, other natural features, or stormwater management areas.

    b. A minimum of 30% of the gross acreage set aside as common open space must be suitably improved to be usable by the residents in the area. These improvements could be swimming pools, courts or fields for various sports, walking trails, playgrounds, pavilions, level open fields, or other amenities that are appropriate for the proposed development. The proposed amenities shall be reviewed in detail as a part of the planned development submittal. Sufficient information to include drawings, plans, pictures, or other data shall be included with the submittal package for review.

    c. A concrete slab with a roof shall be installed for use as a bus stop for the residents within the development. This bus stop shall be situated so as to allow for the transfer of passengers without entering into the development. The minimum size of this bus stop shall be two hundred (200) square feet. The requirement of the installation of bus stops may be waived if public right-of-ways are extended through the development, or if the development is restricted to senior living.

D. Waiver of Board of Zoning Appeals Action

No action of the Board of Zoning Appeals shall be required in the approval of a planned development including those activities or uses which would otherwise require special use permits as provided by this ordinance.

E. Phasing of Development

1. Within 12 months from and after the effective date of the ordinance approving the planned development, a building permit shall be required to be pulled. In the event that a building permit has not been pulled, the Planning Commission shall review the zoning of the planned development and may recommend to the Town Council that action be taken to zone the land back to the zoning classification placed upon the land prior to the adoption of the ordinance approving the planned development.

2. The Planning Commission may permit the development to progress in phases and sections, provided, each phase or section of the development is so planned and so related to existing surroundings and available facilities and services that failure to

proceed to subsequent stages will not have an adverse impact on the initial phases or sections of the planned development or its surroundings.

F. Annexation

An application for planned development approval may be made simultaneous with a request for annexation.

4.072 Types of Planned Developments.

Planned developments shall consist of four (4) types. These are as follows:

A. PRD – Planned Residential District

Any planned development for a land use, uses, or combination of uses permitted by right or by special exception in the R-1, R-2, R-3, R-4, R-5, and R-6 districts as indicated in Article V of this Ordinance shall be classified as and shown on the official zoning map as a PRD, Planned Residential District.

B. PCD – Planned Commercial District

Any planned development for a land use, uses, or a combination of uses permitted by right or by special exception in the C-1, C-2, C-3, C-4, or P-O districts as indicated in Article V of this Ordinance shall be classified as and shown on the official zoning map as a PCD, Planned Commercial District.

C. PID – Planned Industrial District

Any planned development for a land use, uses, or a combination of uses permitted by right or by special exception in the I-1, I-2, and I-3 districts as indicated in Article V of this Ordinance shall be classified as and shown on the official zoning map as a PID, Planned Industrial District.

D. PUD – Planned Unit District

Any planned development consisting of a combination of uses permitted by right or by special exception in a combination of the zoning districts in Article V of this Ordinance shall be classified as and shown on the official zoning map as a PUD, Planned Unit District.

4.073 Minimum lot area and frontage requirements within a planned development.

1. No minimum lot size or yards shall be required within a planned development. Every dwelling unit or other permitted use in the planned development shall have access to a public road or street either directly or via an approved private road, pedestrian way, court,

or other area dedicated to public use or reserved for private use, or common element guaranteeing access. Permitted uses are not required to front on a public dedicated road or street.

2. Notwithstanding the above, within a planned development with single-family dwellings consisting of twenty-five (25) or more residential dwellings, there shall be a minimum of three lot size tiers that encompass a percentage of the entire lots within the development which consist of the following:

Tier	Lot Size Minimum	Percent of Lots in Development
Small	7,000	Maximum 40%
Mid	9,000	Maximum 30%
Large	11,000	Minimum 30%

A minimum of 2,000 square feet in lot size minimums is required between tiers.

A. Townhomes may be proposed as part of a planned development, but shall not exceed 50% of the lots within the small tier and shall count towards the 40% lot maximum.

3. When adjoining an existing R-1 (Low-Density Residential) zoned property within the Town of Smyrna or a property zoned RM (Medium-Density Residential) in Rutherford County, the lot size of the properties within the planned development abutting the aforementioned zoned lots are required to be a minimum 11,000 square feet. When the planned development adjoins any other single family residentially zoned property, the lot size of the properties within the planned development abutting such property are required to have a minimum lot size of 75% of the required minimum lot size required by the abutting zoning district. In the event two different zoning lots are adjacent, the larger minimum shall take precedence. This regulation shall still apply in the event a landscape or fence buffer is provided between the planned development lots and the adjoining property. In addition to these requirements, if a planned development abuts property zoned R-1 (Low-Density Residential) within the Town of Smyrna or a property zoned RM (Medium-Density Residential) in Rutherford County, a landscape buffer at least 20' wide is required to be installed along the entire abutting border on the planned development's side of the property line.

4.074 <u>Other Developmental Requirements</u>.

1. No zero side yard shall be adjacent to any public or private right-of-way, nor shall it be adjacent to any parcel of land not being approved by the Planning Commission and Town Council for a planned development.

2. No portion of a dwelling or architectural features of a structure shall project over any property line.

3. Where the same interior property line is utilized for the zero side yard construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum air space of two (2) inches.

4. Where the same interior property line is utilized for the construction of any zero side yard structure, all the provisions of the Building Code adopted by the Town of Smyrna shall be met, and all such fire walls shall have a rating as required by the State Fire Marshall's Office.

5. All residential structures must contain a firewall between the various dwelling units, extending from the footing to the underside of the roof deck without openings which would permit the spread of fire. Such wall shall not have less than two hours fire rating. The firewall must be bisected by a line dividing each dwelling unit so that one-half of the firewall is on each parcel.

4.075 Building Spacing.

A. Minimum Building Spacing: Space between buildings shall comply with the fire code adopted by the Town Council.

B. Minimum Distance to Side and Rear Property Line: The minimum distance between the building and the side and/or rear property shall comply with the fire code adopted by the Town Council.

C. Perimeter requirements. If topographical or other barriers do not provide adequate privacy for existing uses adjacent to the planned development, the Planning Commission may impose either of the following requirements:

    1. Structures located on the perimeter of the planned development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses, if applicable.

    2. Structures located on the perimeter of the planned development must be permanently screened in a manner which is sufficient to protect the privacy and amenity of adjacent existing uses. Such screening should be suitably landscaped with grass and/or ground cover, shrubs and trees. (See definition of buffer strip).

D. Additional requirements. If a side setback is requested in any planned development that is less than 10 (ten) feet, the construction materials required for the sides of any structure subject to that building setback shall be brick, stone, concrete siding, or other

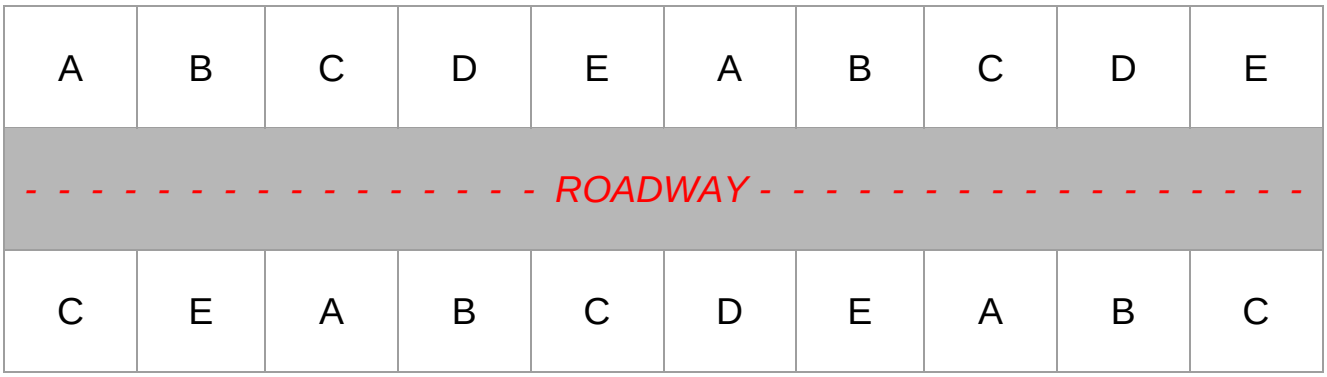
nonflammable masonry material. HVAC units for parcels subject to a side setback of less than 10 (ten) feet shall be located in the rear of the building or on the roof, if applicable.

E. Within any planned development that allows for a residential use or an individual lot, customary accessory buildings including private garages and non-commercial workshops are allowed provided they are located in the side or rear yard and not closer than five (5) feet to any lot lines.

4.076 <u>Additional Requirements for Planned Developments With 25 or More Residential Lots.</u>

1. Exterior Façade
   A. A minimum of 12 unique exterior elevations shall be submitted with the pattern book for the rezoning request for a planned development.
   B. Street Facing Facades
      i. A minimum of 2 materials consisting of brick, stone and fiber cement siding shall be used for any street facing façade.
      ii. The aforementioned two material requirement for street facing facades shall not be applicable if the entire street facing façade is brick.
      iii. Architectural details shall be incorporated on all street facing facades including, but not limited to: shutters, windows, wrap around porch, bay windows, arches, dormers.
   C. Non-Street Facing Facades
      i. The entire façade, excluding architectural details, of any non-street facing elevation may be one material of brick, stone, or fiber cement siding.
      ii. Any material not listed above may be used on non-street facing façades, but may not exceed ten (10) percent of the entire building façade.
   D. Foundation
      i. There shall be no exposed concrete block or concrete slab upon completion of the dwelling. This shall be concealed using brick or stone on all facades.

2. Repeating Front Façade
   A. There shall be a minimum two (2) lot gap between identical elevations. No building elevation may be repeated across from, adjacent to, or diagonal to another identical elevation.



A, B, C, D, E each represent a different elevation and the layout along a roadway to maintain the two (2) lot gap distance between identical elevations.

B. Provide a variation in roof orientation, ridge lines, eave heights and garage details between each lot when possible.
C. Building façade, colors and design elements should vary between each lot with a variation of massing and architectural details on each block.

3. Dwelling Orientation
   Any dwelling on a lot with multiple road frontages shall face the higher classification as established on the Major Thoroughfare Plan. In the event multiple roadways have the same classification, the dwelling shall face the more prominent roadway.

4. Setbacks
   A. Front Setback
      i. Public Road: The garage shall be setback a minimum of thirty-five (35) feet from the public right-of-way.
      ii. Private Road: The garage shall be setback a minimum of thirty-eight (38) feet from the edge of pavement or the back of the sidewalk, as applicable, on the roadway.
      iii. Architectural features (wrap around porches, bay windows, etc.) may extend into the secondary front setback on a corner lot, meaning the street on which the house does not face.
   B. Side Setback
      i. A maximum of forty (40) percent of lots within the development may have seven and a half (7.5) foot side setbacks.
      ii. Lots not having side setbacks of seven and a half (7.5) feet shall have side setbacks of at least ten (10) feet.
      iii. If a side entry garage is utilized for a single-family dwelling on non-corner lots, side setbacks may be reduced to a minimum of five (5) feet on the side lot line opposite of

the garage entry with a minimum of ten (10) feet on the opposite side. A minimum of fifteen (15) feet must be maintained between dwellings.

iv. Dwellings with side entry garages with a reduced side setback shall not count towards the forty (40) percent maximum of lots at or under seven and a half (7.5) feet setbacks within the development.

5. Garages
   A. Corner lots are required to have side entry garages.
   B. Width
      i. Garages that face a street shall not exceed 40% of the front wall façade square footage for two story dwellings.
      ii. The area restriction shall not be applicable to single story dwellings, side entry garage dwellings, nor rear or alley loaded garage dwellings.
   C. Design Variation
      i. Garage doors for all street facing garages must incorporate windows. In addition, a minimum of two other design variations shall be required from the following list:
         (a) Garage recessed a minimum of five (5) feet from the front façade
         (b) Wall lighting and/or gooseneck lighting
         (c) Gabled roofline above the garage
         (d) Decorative trim around the garage door
         (e) Multiple garage doors in lieu of a single door
         (f) Awning above the garage door
         (g) Window placed above the garage either on the façade or on the roof
         (h) Decorative garage door (hardware, shape, color)

4.077 <u>Administrative procedure</u>.

A. Application for Planned Development Approval

The application shall be accompanied by a nonrefundable fee established from time to time by the Town Council and shall include the following:

1. For all planned residential developments:

(a) A map showing available utilities, easements, roadways, rail lines, and public rights-of-way crossing and adjacent to the subject property.

(b) A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural topographical and

physical features of the subject property; location and extent of water courses, wetlands, floodways, and floodplains on the property; existing drainage patterns; location and extent of tree cover; and community greenways and pedestrian ways in proximity to the subject property.

(c) A site plan, aerial photograph, or combination thereof depicting the subject and adjoining properties including the location of structures on site and within two hundred (200) feet of the subject property and the identification of the use thereof.

(d) A drawing defining the general location and maximum number of lots, parcels, or sites proposed to be developed or occupied by buildings in the planned development; the general location and maximum amount of area to be developed for parking; the general location and maximum amount of area to be devoted to open space and to be conveyed, dedicated, or reserved for parks, playgrounds, recreation uses, public buildings, and other common use areas; the approximate location of points of ingress and egress and access streets; the approximate location of pedestrian, bicycle and vehicular ways or the restrictions pertaining thereto; the location of proposed utility extensions; the location of proposed stormwater facilities; proposed architectural designs; a circulation diagram and/or road layout; and the extent of proposed landscaping, planting, screening, or fencing.

(e) A tabulation of the maximum number of dwelling units proposed by type of dwelling as defined in Article II of this Ordinance.

(f) A tabulation of the maximum floor area proposed to be constructed.

(g) A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the Town and how the proposed planned development is to be designed, arranged, and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this Ordinance.

(h) If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season a development schedule indicating:

(1) The approximate date when construction of the project can be expected to begin;
(2) The order in which the phases of the project will be built;
(3) The minimum area and the approximate location of common space and public improvements that will be required at each stage;
(4) A breakdown by phase for subsections (e) and (f) above.

(i) Proposed means of assuring the continued maintenance of common open space or other common elements and governing the use and continued protection of the planned development.

(j) A statement setting forth in detail either (1) the exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed planned development or (2) the bulk, use, and/or other regulations under which the planned development is proposed.

(k) The location and proposed improvements of any street depicted on the Major Thoroughfare Plan.

(l) The planning staff, Planning Commission, or Town Council may require additional information to be submitted which may be necessary to make a determination regarding the application for a planned development.

2. For all planned commercial, planned industrial and planned unit developments.

(a) A map showing available utilities, easements, roadways, rail lines, and public rights-of-way crossing and adjacent to the subject property.

(b) A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural topographical and physical features of the subject property; location and extent of water courses, wetlands, floodways, and floodplains on the property; existing drainage patterns; location and extent of tree cover; and community greenways and pedestrian ways in proximity to the subject property.

(c) A site plan, aerial photograph, or combination thereof depicting the subject and adjoining properties including the location of structures on site and within two hundred (200) feet of the subject property and the identification of the use thereof.

(d) A drawing defining the general location and maximum number of lots, parcels, or sites proposed to be developed or occupied by buildings in the planned development; the general location and maximum amount of area to be developed for parking, including provisions of spaces for loading; the general location and maximum amount of area to be devoted to open space and to be conveyed, dedicated, or reserved for parks, playgrounds, recreation uses, public buildings, and other common use areas; the approximate location of points of ingress and egress and access streets; the approximate location of pedestrian, bicycle and vehicular ways or the restrictions pertaining thereto; the location of proposed utility extensions; the location of proposed stormwater facilities; proposed architectural designs; a circulation diagram and/or road layout; and the extent of proposed landscaping, planting, screening, or fencing.

(e) A tabulation of the maximum number of dwelling units proposed by type of dwelling as defined in Article II of this Ordinance.

(f) A tabulation setting forth:

(1) Maximum total square feet of building floor area proposed for commercial uses and industrial uses, by general type of use.
(2) Maximum total land area, expressed in acres and as a percent of the total development area, proposed to be devoted to commercial and/or industrial uses; minimum public and private open space; streets and off-street parking and loading areas.
(3) A tabulation of the maximum floor area to be constructed.

(g) A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the Town and how the proposed planned development is to be designed, arranged, and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this Ordinance.

(h) If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season a development schedule indicating:

(1) The approximate date when construction of the project can be expected to begin;
(2) The order in which the phases of the project will be built;
(3) The minimum area and the approximate location of common space and public improvements that will be required at each stage;
(4) A breakdown by phase for subsections (e) and (f) above.

(i) Proposed means of assuring the continued maintenance of common open space or other common elements and governing the use and continued protection of the planned development.

(j) A statement setting forth in detail either (1) the exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed planned development or (2) the bulk, use, and/or other regulations under which the planned development is proposed.

(k) The location and proposed improvements of any street depicted on the Major Thoroughfare Plan.

(l) The planning staff, Planning Commission, or Town Council may require additional information to be submitted which may be necessary to make a determination regarding the application for a planned development.

B. Staff Review of Application

Upon receipt of an application for planned development approval, the planning staff shall review the application for completion. In the event the planning staff determines the application is incomplete, the planning staff shall notify the applicant of elements necessary to complete the application. When the application is complete, the planning staff shall prepare a written response recommending appropriate changes, additions, and deletions and identifying any special concerns with respect to the proposed planned development.

C. Planning Commission Review of Application

Not more than thirty (30) days after a complete application for planned development approval has been filed, staff shall forward the application to the Planning Commission for review along with the staff's written response. During this review, the Planning Commission members may suggest changes to the proposed development plan. Within thirty (30) days

of the date of the Planning Commission meeting at which the planned development is first considered, the Planning Commission shall make a recommendation to the Town Council for approval, disapproval, or approval subject to special conditions.

If the Planning Commission fails to make a recommendation within the thirty- (30) day period, it shall be deemed to have recommended approval of the planned development.

D. Town Council Review of Application

The Town Council shall proceed with a planned development application as an amendment to the Zoning Map detailed in Section 7.090 of this Ordinance. The Town Council shall approve, disapprove, or approve subject to special conditions the planned development application. The Town Council may condition approval upon conditions in addition or in substitution to those placed by the Planning Commission.

Approval by the Town Council shall constitute a change of the zoning map and shall authorize the applicant to proceed with the filing of applications for site plans, subdivision plats, building permits, and any other permits ordinarily required for development. These applications shall be reviewed by staff and by the Planning Commission as established in the Zoning Ordinance and Subdivision Regulations.

E. Minor Deviations

When filing subsequent applications for required approvals, the applicant must identify any deviations from the approved planned development. Staff shall evaluate the deviations to determine whether they are substantial or minor in accordance with the following:

1. It provides for less density than the approved plan;
2. It provides greater open space by the elimination of or reduction in the size of the residential, commercial, or industrial buildings;
3. It modifies the orientation, location, siting, or height of buildings and structures if required by engineering or other circumstances not foreseen at the time the planned development was approved. No change authorized by this section can be greater than ten (10) percent of the approved planned development.

The evaluation shall be made within ten (10) working days. If staff finds the application deviates substantially from the approved application, the applicant shall apply for an amendment of the planned development as provided in this section.

F. Amendments

A planned development may be amended in accordance with the procedure which governs its approval as provided in this section.

4.080 Special Provisions for Party Walls.

Within the R-6 zoning district zero-lot line dwellings may be located upon appropriate zone lots, and such dwellings may be subdivided by party wall into two separate zone lots, provided that a site plan of such development or conversion as required in Section 3.120 is approved by the Planning Commission along with the necessary subdivision plat(s). Moreover, two separate personal, professional, and/or business service oriented land uses connected by a zero-lot line may be located on two separate zone lots, being adjoined together by party wall within commercial or professional and office zoning districts, provided that a site plan of such development or conversion as required in Section 3.120 is approved by the Planning Commission along with the necessary subdivision plat(s). In granting approval of the site plan, the Planning Commission shall be guided by the following criteria:

(1) Other than the zero lot line separating the two dwelling units, office units, commercial units or zone lot, all other minimum lot, yard, and density requirements of the zoning district shall be met.

(2) No zero side yards shall be adjacent to any public or private right-of-way.

(3) No portion of a dwelling or architectural feature of a structure shall project over any property line.

(4) Where the same interior property line is utilized for the zero side yard construction of any structure, such structure shall be divided by a fire wall as required by the building and fire codes adopted by the Town Council.

(5) Where the same interior property line is utilized for the construction of any zero side yard structure, all the provisions of the Building Code adopted by the Town of Smyrna shall be met, and all such fire walls shall have a rating of not less than two (2) hours duration.

(6) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit the spread of fire.

(7) Individual water and sewer services for each zone lot shall be required.

(8) All the requirements of the Smyrna Subdivision Regulations shall be met.

(9) All current requirements of the fire code adopted by the Town of Smyrna must be satisfied.

Other information that shall be provided relating to deed covenants is as follows:

(1) An agreement covering the status, including the ownership, maintenance, etc., of the common wall separating the units or zone lots.

(2) Adequate language to assure proper maintenance etc., of any portion of the structure where maintenance must be shared (ex. common roof).

If the correction of a maintenance problem incurred in the dwelling unit or structure on the zone lot on one parcel necessitates construction work or access on the dwelling unit or structure of the other parcel, either parcel owner shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions.

(3) Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which originally approved. Such language shall so specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner which would have the effect of negating the unified plan under which original approval was granted and language indicating that the purchaser of any such parcel understands that in no instance within any R-4 zoning district will any such parcel or zone lot be viewed as a separate independent parcel for zoning purposes, other than for the purpose or specific use under which said parcel was originally approved.

In relation to commercial and professional and office zero-lot line developments, the variation in the setback requirements as cited within the appropriate zoning district shall apply only to the project as originally approved.

(4) Adequate language covering any and all cross access and utility easements as are necessary to assure the proper use and maintenance of all ingress and egress areas, as well as all utility services.

(5) If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions.

Either parcel owner shall have an easement on the property of the other for the purpose of reconstruction and protection of the remaining unity from the elements.

4.090 Development standards for mobile home parks.

The following land development standards shall apply for all mobile home parks:

A. No parcel of land containing less than two (2) acres and less than ten (10) mobile home spaces, available at the time of first occupancy shall be utilized for a mobile home park.

B. The mobile home park shall be located on a well-drained site, properly graded to insure rapid drainage and to avoid the possibility of stagnant pools of water.

C. Dimensional Requirements for Parks:

1. Each mobile home park shall have a front yard setback of thirty (30) feet exclusive of any required yards for each mobile home space, extending for the full width of the parcel devoted to said use.

2. Each mobile home park shall provide rear and side yards of not less than fifteen (15) feet, exclusive of any required yards for each mobile home space, from the parcel boundary.

3. In instances where a side or rear yard abuts a public street, said yard shall not be less than thirty (30) feet.

4. No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty (30) feet.

5. Each mobile home park shall be permitted to display, on each street frontage, one (1) identifying sign of a maximum size of twenty (20) square feet. Said sign(s) shall contain thereon only the name and address of the park and may be lighted by indirect lighting only.

D. Dimensional Requirements for Mobile Home Spaces:
Each mobile home space shall be of sufficient size that, in addition to the mobile home, the following space shall be provided:

1. Each mobile home space shall be at least thirty-six (36) feet wide and such space shall be clearly defined by permanent markers.

2. There shall be a front yard setback of ten (10) feet from all access roads within the mobile home park.

3. Mobile homes shall be harbored on each space so there shall be at least thirty (30) feet between units on the side and twenty (20) feet between units on the rear.

4. There shall be at least two (2) paved, off-street parking spaces for each mobile home space, which shall be on the same site as the trailer served, and may be located in the rear or side yard of said trailer space.

5. Each mobile home space shall be provided with a pad, which shall be a minimum of twelve (12) feet by fifty (50) feet, which shall be constructed of four (4) inches of compacted gravel.

6. The mobile home park shall be developed to a density compatible with the district in which it is located; however, the minimum lot area per mobile home space with public water and sewer shall be four thousand and four hundred (4,400) square feet. For doublewide mobile homes, the minimum lot size shall be six thousand (6,000) square feet.

   No mobile home park shall be permitted unless such park is served by a public water supply.

E. General Requirements:

1. Roads within the mobile home park shall be paved to a width of not less than twenty-two (22) feet in accordance with the procedures and standards for minor residential streets as specified in the Smyrna Subdivision Regulations; and the right-of-way shall only be of sufficient width to include the road surface itself and necessary drainage facilities. All roads within the mobile home park shall be private roads and shall not be accepted as public roads.

2. All mobile home spaces within the park shall abut an access road as described in Subsection E, 1, of this section.

3. Each mobile home space shall be provided with the connection to the sanitary sewer line.

4. Trailers, with or without toilet facilities that cannot be connected to an approved sewer system shall not be permitted in a mobile home park.

5. Cabanas travel trailers, and other similar enclosed structures are prohibited.

6. Mobile homes shall not be used for commercial, industrial, or other nonresidential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a rental office.

7. Ground anchors shall be installed at each mobile home space to permit tiedowns of mobile homes.

F. Plans and Schedules Required: The following information shall be shown on the required site plan:

1. The location and legal description of the proposed mobile home park.

2. The location and size of all buildings, improvements, and facilities constructed or to be constructed within the mobile home park.

3. The proposed use of buildings showed on the site plan.

4. The location and size of all mobile home spaces.

5. The location of all points of entry and exit for motor vehicles and the internal circulation pattern.

6. The location of all off-street parking facilities.

7. The location of park and recreation areas.

8. The name and address of the applicant.

9. A comprehensive drainage plan.

10. Such other architectural, engineering, and topographical data as may be required to permit, appropriate State agency, the Smyrna Building Official, the staff planner, and the Board of Zoning Appeals to determine if the provisions of these regulations are being complied with shall be submitted with the site plan.

11. A time schedule for development shall be prepared, which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.

12. All mobile home parks, which do not conform to the provisions of the zoning ordinance, shall be governed in accordance with the provisions of SECTION 6.020 of this ordinance.

G. Application for Mobile Home Park Building Permit: An application for a permit to develop and construct a mobile home park shall be filed in accordance with ARTICLE VII, SECTION 7.060, of this ordinance and shall be accompanied by all site plans, schedules, and other information herein required. Said application shall be processed in the following manner:

1. The written application, plans, and schedules, herein required will be submitted to the Smyrna Building Official and staff planner. The Building Official and staff planner shall dully review these materials and shall coordinate the review with other affected agencies and departments.

2. The Smyrna Building Official and staff planner shall, after review, recommend approval or disapproval of the proposed mobile home park to the Board of Zoning Appeals, which then may authorize the issuance of a permit for construction of the park as approved, or state the conditions under which approval for construction may be granted.

4.100 Development standards for automobile wrecking junk and salvage yards.

Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards, and may adversely affect property value by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlines above, will have properly minimized their objectionable characteristics:

A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.

C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within and enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.

D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.

E. Off-Road Parking: As regulated in ARTICLE IV, SECTION 4.010.

F. Ingress and Egress: The number of vehicular access driveways permitted on any single street frontage shall be limited to:

1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.

2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width maximum, exclusive of curb returns.

3. Other applicable requirements of Section 3.090 shall be met.

G. Application for Automobile Wrecking Junk or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk, or salvage yard within Smyrna until he has secured a permit from the Smyrna Board of Zoning Appeals. An application for said permit shall be filed in accordance with ARTICLE VII, SECTION 7.060, of this ordinance and shall be accompanied by a detailed site plan, a schedule for construction, and any other information herein required. Said application shall be submitted along with any plans and

schedules.

The Board shall vote to approve or disapprove the application in accordance with the time schedule in SECTION 7.060.

4.110 Reserved.

4.120 Reserved.

4.130 Performance standards regulations.

The purpose of this section is to establish regulations and standards for the installation and operation of industrial, commercial, community facility uses, based upon consideration of the objectionable characteristics of such uses and the districts in which they are permitted.

In all districts, as indicated in each respective district, any permitted use or any conditional use and every building or structure or tract of land that is established, developed, or constructed shall comply with each and every performance standard contained herein.

When any use or building or other structure is extended, enlarged, or reconstructed after the effective date of this Title, the applicable performance standards shall apply to such extended, enlarged, or reconstructed portion or portions of such use of building or other structure.

The provisions of this chapter shall apply not withstanding the issuance after the effective date of this ordinance of any zoning permit or use and occupancy permit.

Performance standards are not applicable to the temporary construction, excavation, grading and demolition activities which are necessary and incidental to the development of facilities on the same zone lot, on another of several zone lots being developed at the time, or on the public right-of-way or easement for a community facility activity.

In the case of any conflict between the activity type and the performance standards, the latter shall control. In the case of any conflict between the performance standards set forth herein and any rules and regulations adopted by other governmental agencies, the more restrictive shall apply.

The following performance standards regulations shall apply to all uses of property in the C-1, C-2, C-3, C-4, P-O, I-1, I-2, I-3, and A-1 Districts. If in the opinion of the Planning Commission there is question as to whether an existing or proposed land use is in violation of the following performance standards, it shall be the responsibility of the property owner and/or person (as defined herein) in question to provide beyond a doubt that such usage is in compliance with the applicable performance standard(s).

4.130.1 Prohibition of Dangerous or Objectionable Elements.

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, odor, or other form of air pollution; heat, cold, dampness, electrical, or other disturbance; glare; liquid or solid refuse or wastes; or other substance, condition, or element in such a manner or in such amount as to adversely affect the surrounding area.

4.130.2 Performance Standards Regulating Noise.

At no point on or beyond the boundary of any lot which abuts a lot in the same district, shall the sound pressure level resulting from any use or activity, whether open or enclosed, exceed the maximum permitted decibel levels for the designated octave band as set forth in the table below:

Octave Band Frequency in Cycles/Second	Sound Pressure Level in Decibels
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 - 1,199	53
1,200 - 2,300	47
2,400 - 4,799	41
4,800 and Over	39

Where any P-O, C-1, C-2, C-3, C-4, I-1, I-2, I-3 or A-1 District adjoins a district permitting residences, the maximum permitted decibel levels at any point on or beyond the district boundary shall be reduced by six (6) decibels from the maximum permitted level in the table.

4.130.3 Performance Standards Regulating Vibration.

No vibration other than from a temporary construction operation or a transportation facility shall be permitted which is discernible without instruments at the zone lot line of the zone lot on which the vibration source is situated.

For purposes of this section, vibration shall include the type of vibration which is a reciprocating movement transmitted through the earth and impact vibration which is an earthborne vibration produced by two or more objects (or parts of a machine) striking each other.

4.130.4 Performance Standards Regulating Smoke.

No emission shall be permitted at any point from any stack, chimney, or other source of smoke or visible effluent of a shade equal to or darker than Ringlemann No. 1 except as provided below:

Within the I-3 District, the emission of smoke or visible effluent of a shade equal to Ringlemann No. 2 may be permitted for six (6) minutes in any four (4) hour period.

Within the I-3 District, the emission of smoke or visible effluent of a shade darker than Ringlemann No. 2 shall not be permitted, except that visible gray smoke of a shade equal to Ringlemann No. 3 may be permitted for three (3) minutes in any one (1) hour period.

4.130.5 Performance Standards Regulating Gases, Dust, and Particulate Matter.

No emission shall be permitted from any stack, chimney, or other source of any solid or liquid particles in concentrations exceeding 0.30 grains per cubic foot of the conveying gas at any point. For measurement of the amount of particles in gases resulting from combustion, standard correction shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air. In no case shall any emission be permitted which will cause any damage to health, animals, vegetation, or other forms of property or which can cause soiling at any point beyond the zone lot line on which the source is situated.

4.130.6 Performance Standards Regulating Odors.

Odorous matter released from any operation shall not exceed the lowest concentration, which will produce an olfactory response in a person beyond the zone lot line.

4.130.7 Performance Standards Regulating Toxic Matter.

No emission, which would be demonstrably injurious to human health, animals, or plant life at or beyond the zone lot line, will be permitted. Where an industrial use could produce such

emission at a result of accident or equipment misfunction, adequate safeguards considered standard for safe operation in the industry involved shall be taken.

4.130.8 Performance Standards Regulating Fire and Explosive Hazards.

The storage, utilization, or manufacture of solid materials or products ranging from free or active burning to intense burning may be permitted, but only if said materials or products are stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior and protected throughout by an automatic fire extinguishing system.

All activities involving the use and/or storage and/or disposal of all types of flammable or explosive material shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate fire-fighting and suppression equipment and device standard to the industry involved. Outdoor storage of any such materials shall be no less than forty (40) feet from all zone lot lines.

4.130.9 Performance Standards Regulating Glare and Heat.

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure such operation from view from any point along the property line, except during the period of construction of the facilities to be used and occupied.

4.130.10 Performance Standards Regulating Electromagnetic Interference.

In all districts, no operations or activities shall be conducted which cause electrical disturbances to be transmitted across zone lot lines.

4.130.11 Performance Standards Regulating Radioactive Materials.

The Tennessee Department of Health and Environment shall in accordance with the "State Regulations for Protection against Radiation" issue the manufacture, storage, and utilization of radioactive materials.

4.140 Minimum residential front yard requirements on turn-arounds of cul-de-sac streets.

On all lots directly fronting turn-arounds in residential zoning district the minimum required lot widths at the front building setback lines as stipulated in Article V for each respective zoning district therein may be reduced to seventy (70) percent of said residential district requirement. This supplemental exemption is designed to foster improved siting of principal structures on such turn-around.

4.150 Special provisions for residential occupancy in connection with mini-warehouse facilities.

In all industrial zoning districts wherein mini-warehouse facilities are allowed, residential occupancy may be permitted as a special exception by the Board of Zoning Appeals as an accessory use thereof based upon the following standards:

A. Residential occupancy may be permitted in conjunction with the office facility situated within the mini-warehouse complex or facility on the same zone lot, as an accessory use thereof, in order to facilitate adequate security of the premises according to the following provisions:

1. No more than one (1) dwelling or rooming unit may be permitted in conjunction with the office facility situated within the complex, located on the same zone lot limited to 2 bedrooms of no more than nine hundred (900) square feet.

2. Any office-dwelling unit or office-rooming unit permitted under the provisions of this section shall be strictly limited to occupancy by two (2) persons employed to manage the office facility on the same zone lot while providing security services to the entire mini-warehouse facility thereon.

3. Prior to issuing a permit for a special exception for this section, detailed plans must be submitted to the Board clearly demonstrating the location of the office-dwelling unit internal to the site, the specific parking spaces and parking aisles servicing this office-dwelling unit complex, as well as all other required information as cited in Sections 7.060 and 7.061 Subsections A, B, and C of Article VII of this ordinance.

4. It must be demonstrated that all other fire code and applicable building codes are being met prior to the approval of a special exception by the Board of Appeals in this regard.

4.160 Development standards as apply to duplex residential dwellings, as well as zero-lot line two-family dwellings.

A. Purpose

The provisions set forth herein are intended to apply to all two-family detached dwellings (duplex and zero-lot line two-family dwellings) as defined by this ordinance regardless of the district in which such use may be located. It is the express purpose of these provisions to establish design criteria and to provide for the implementing of these provisions by the planning staff in the review of the plot (site) plan required in Section 3.120 of Article III for all zero-lot line two-family dwelling developments, or by way of appropriate notations, as well as by architectural and/or perspective illustrations if required by the planning staff or

Planning Commission, in reviewing the required building permits or subdivision plats pertaining to duplex dwellings. Provided, however, that in any instance where this use is located within a planned unit development, this requirement may be fulfilled by submission of the plans required by the requirements as cited in Section 4.070 of Article IV.

B. Design Criteria

1. All two-family detached units constructed on individual zone lots shall be designed to closely resemble in appearance the other housing units in the neighborhood. Particular attention should be paid to locating only one entrance door servicing the front of the structure.

2. Exterior building materials shall be of the same type and quality of other dwelling units in the neighborhood or on adjoining lots.

3. Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, as well as the screening of objectionable views or uses, and the reduction of noise when required by the Planning Commission and/or Planning Staff.

4. The appearance and character of the site shall be preserved, as appropriate, and enhanced by retaining and protecting existing trees and other site features. Additional new plant material shall be added for privacy, to enhance the beauty of buildings and grounds, and to screen objectionable features.

C. Lots

The minimum lot size required for any such dwelling shall be as stipulated by the development area per dwelling unit as provided in each respective district.

D. Parking

1. These requirements shall supplement the parking provisions contained in Article IV, Section 4.010.

2. No off-street parking areas shall be located in the front of the structure. Every effort shall be made to locate some of the required off-street parking in the rear yard, as well as in the side yard.

4.170 Development Standards as apply to multi-family dwellings.

A. Purpose

The provisions set forth herein are intended to provide a limited number of basic design standards for multi-family dwellings located on a single zone lot or tract that abuts a public street. Specifically these provisions are intended to supplement the site plan provisions located in Article III, Section 3.120, in an effort to establish safe, attractive, and efficient design patterns thereof.

B. Development Standards

1. No multi-family structure shall contain more than twelve (12) dwelling units per floor in a single building or structure.

2. No two adjoining multi-family structures shall be located at a uniform setback from any front, side or rear property line of the zone lot being developed, unless such zone lot contains severe natural constraints such as very steep topographic slopes, large water bodies, a very narrow, or odd-shaped configuration, etc., as determined by the Planning Commission. Every effort shall be made to stagger the setback of adjoining structures by no less than ten (10) feet from exterior property lines.

3. At a minimum, there shall be a dimension of no less than thirty (30) feet between any two structures, as well as between any structure or building and any exterior property line.

4. Common open space in a multi-family development, whether owned and maintained by an established homeowners' association or by the owner of the multi-family complex, is required to be suitably improved for its intended uses. The location, shape, site, and character of the open space shall be reviewed in detail and the proposed uses must be appropriate to the scale and character of the development.

   The following minimum standards for common open space shall be provided:

   a. A minimum of 15% of the gross acreage of the site shall be set aside as common open space. This space may be unimproved and passive in nature and could include steep slopes, floodplains, other natural features, or stormwater management areas.

   b. A minimum of 30% of the minimum gross acreage set aside as common space must be suitably improved to be usable by the residents in the area. These improvements could be swimming pools, courts or fields for various sports, walking trails, playgrounds, pavilions, level open fields, or other amenities that are appropriate for

the proposed development. The proposed amenities shall be reviewed in detail as part of the planned development submittal. Sufficient information to include drawings, plans, pictures, or other data shall be included with the submittal package for review.

c. A concrete slab with a roof shall be installed for use as a bus stop for the residents within the development. This bus stop shall be situated so as to allow for the transfer of passengers without entering into the complex. The minimum size of this bus stop shall be two hundred (200) square feet. The requirement of the installation of bus stops may be waived if public right-of-ways are extended through the development, or if the development is restricted to senior living.

4.180 Supplemental Side Yard Building Setback Requirements.

Whenever the minimum side yard building setback line abuts or directly adjoins any dedicated public utility and/or drainage easement, additional side yard building setback requirements shall be declared in the R-2, R-3, R-4, and R-5 zoning district, unless approved in writing by the Director of Planning and/or Town Engineer as appropriate. In the R-2 zoning district, an additional three (3) feet shall be declared, bringing said side yard building setback line to a total of fifteen (15) feet. In the R-3, R-4, and R-5 zoning districts, an additional five (5) feet shall be declared, bringing the side yard building setback line to a total of fifteen (15) feet. All supplementary side yard building setback requirements shall be so noted on all applicable preliminary and final subdivision plats

4.190 Supplemental Provision for Alternative Financial Services Businesses.

In the C-2 and C-3 zoning districts wherein alternative financial services are allowed, the following special provisions shall apply:

A. From and after February 10, 2015, no alternative financial services business shall be located less than 1,320 linear feet (1/4 mile) from another alternative financial services business measured in a straight line from the closest point of the building to the closest point of the second building. If one or both locations are in a shopping center or strip mall, the measurement shall be in a straight line from the closest point of the nearest interior wall containing the business to the other location's building or interior wall, whichever is applicable.

B. From and after February 10, 2015, no alternative financial services business shall be located less than 1,320 linear feet (1/4 mile) from the property line of a property zoned for single-family or multi-family purposes measured in a straight line from the closest point of the building or interior wall to the property line.

4.200 Supplemental Provision for Auto Towing Services Businesses.

In the I-1, I-2, and I-3 zoning districts wherein auto towing services are allowed, the following special provisions shall apply:

A. The storage facility shall be secured with security fencing at least six (6) feet in height.

B. The required security fencing shall be constructed of wood, vinyl, or masonry and must be opaque so that vehicles stored within the fenced area are not visible from a public street or any adjacent property.

C. All other requirements of the Zoning Ordinance for parking lots, including landscaping, screening, site plan reviews, and any other applicable Zoning Ordinance provisions must be met.

4.210 Supplemental Provision for tobacco, vape and cannabinoid retail establishments.

In the C-5, I-1, I-2 and I-3 zoning districts wherein tobacco, vape and cannabinoid retail establishments are allowed, the following special provisions shall apply:

A. Shall not be located within the H-1, Historic Overlay District.

B. Shall not be permitted as a home based business.

C. Shall have a minimum of one thousand (1,000) feet separation from another tobacco, vape and cannabinoid retail establishment, public or private school, town park, daycare center or church. Such measurement shall be from the closest property line to the closest property line.

D. Shall have a minimum two hundred fifty (250) feet separation from properties zoned or used for residential purposes measured from the closest property line to the closest property line.

ARTICLE V - ZONING DISTRICTS

SECTION

5.010 - Classification of districts
5.020 - Zoning Map
5.030 - Zoning district boundaries
5.040 - Zoning of annexed territory
5.050 - Specific district regulations

5.010 Classification of districts.

For the purpose of this ordinance, the following zoning districts are hereby established in the Town of Smyrna, Tennessee:

Zoning District	District Abbreviation
Low-Density Residential	R-1
Low-Density Residential	R-2
Medium-Density Residential	R-3
Medium-Density Residential	R-4
High-Density Residential	R-5
High-Density Residential	R-6
Central Business	C-1
General Commercial	C-2
Restrictive Highway Services	C-3
Neighborhood Service Business	C-4
Highway Service	C-5
Professional and Office	P-O-1
Professional and Office	P-O-2
Light Industrial	I-1
Light Industrial	I-2
Heavy Industrial	I-3
Floodway	F-1
Airport District	A-1
Historic Overlay District	H-1
Height Overlay	H-2
Lowry Street Overlay District	LSO
Enon Springs Gateway Overlay District	ESO

5.020 Zoning Map.

The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map designated as the Official Zoning Map of Smyrna, Tennessee. The Zoning Map and any amendment thereto shall be dated with the effective date of the ordinance that adopts it. Certified prints of the adopted Official Zoning Map and amendments thereto shall be maintained in the office of the Town Planner and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

5.030 Zoning district boundaries.

Unless otherwise indicated, the district boundary lines are centerlines of streets or blocks or such lines extended, lot lines, corporate limit lines or the centerline of the main tracks of a railroad, and the center of streams when applicable. Such lines drawn as to appear on these lines are hereby on these lines. Where district boundary lines approximately parallel a street or other right-of-way, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by use of the scale and said zoning map. Questions concerning the exact locations of district boundaries shall be determined by the Smyrna Board of Zoning Appeals.

Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.

5.040 Zoning of annexed territory.

All territory, which may hereafter be annexed to the Town of Smyrna, shall have a specific zoning district assigned to it as recommended by the Planning Commission. If no specific zoning district is assigned or legislative body chooses to annex territory without a Planning Commission recommendation, such annexed territory shall be zoned "Low-Density Residential, R-1". Such annexed territory shall retain such zoning classification until such time as the necessary studies are made by the Planning Commission and the Official Zoning Map is amended in the manner provided in ARTICLE VII, SECTION 7.090.

5.050 Specific district regulations.

The regulations that follow in Section 5.051 through 5.054 shall apply in the fourteen (14) zoning districts established in SECTION 5.010 of this ordinance. Article II, Sections 2.020 and 2.030 shall

be referred to in ordinance to define the various uses permitted in the following district regulations.

5.051 Residential Districts.

The Residential Districts established by this ordinance are designed to promote and protect public health, safety, comfort, convenience, prosperity, and other aspects of the general welfare. These general goals include, among others, the following specific purposes:

1. To provide sufficient space in appropriate locations for residential development to meet the housing needs of the Town's present and expected future population, with due allowance for the need for a choice of sites and building types;

2. To protect residential areas, as far as possible, against heavy traffic and against through traffic of all kinds;

3. To protect residential areas against congestion, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces;

4. To require the provision of open space and a maximum conservation of natural sites in residential areas, and to encourage the provision of additional open space by permitting planned development of moderately higher density and intensity coverage with concomitantly higher standards of open space, in order to provide large open areas with greater utility for rest and recreation; and to encourage the development of more attractive and economic and less monotonous building forms, by providing freedom of architectural and site design;

5. To provide for access of light and air to windows and for privacy by controls over the spacing and height of buildings and other structures;

6. To provide appropriate space for those public and private educational, recreational, health, and similar facilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences; and

7. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenue.

5.051.1 R-1, Low-Density Residential District.

A. District Description:

This district is designed to provide suitable areas for low-density residential development characterized by an open appearance. Most generally this district will consist of single-family detached dwellings except when otherwise permitted as a planned development and such other structures as are accessory thereto. This district also includes community facilities, public utilities, and open uses, which serve specifically the residents of the district, or which are benefited by and compatible with a residential environment. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services and facilities will be physically and economically facilitated. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-1, Low-Density Residential District, the following uses and accessory uses are permitted:

1. Single-family detached dwelling.

2. Prefabricated dwelling.

3. Customary accessory buildings or structures, including private garages and non-commercial workshops, provided they are located in the side or rear yard and not closer than five (5) feet to any lot line.

4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.

5. Agricultural use.

6. Essential Public Transport, Communication and Utility Services.

C. Uses Permitted as Special Exceptions:

In the R-1, Low-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Religious Facilities.
2. Educational Facilities.
3. Cultural and Recreation Services.
4. Government Administrative Services.
5. Family Day Care Home.
6. Radio and television towers, and transmission facilities, water storage facilities and water and sewage treatment plants.
7. Bed and Breakfast.
8. Accessory apartment.

D. Uses Prohibited:

Mobile homes; mobile home parks; advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-1, Low-Density Residential District shall comply with the following requirements except as provided in ARTICLE VI.

1.

Minimum Lot Size

Area	15,000 SF
Area/Family	15,000 SF
Lot Width at Building Setback Line	100 Feet

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	15 Feet*
Rear Setback	25 Feet

*Side setbacks can be reduced to a total of twenty-five (25) feet for two (2) lots side by side if the subdivider wishes to submit a subdivision plat for Planning Commission approval showing all four setbacks on each lot. One lot would have a side setback of a minimum of ten (10) feet while the lot immediately adjacent would have a side setback of a minimum of fifteen (15) feet on the sides that are adjacent. The other side of each lot would require the opposite minimum setback, i.e., if one side is ten (10) feet the other side would be fifteen (15) feet and vice versa.

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed thirty-five (35) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.051.2 R-2, Low-Density Residential District.

A. District Description:

This district is designed to provide suitable areas for low-density residential development where complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically installed.

Most generally this district will be characterized by single family detached dwellings and such other structures as are accessory thereto. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of the district, or which are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-2, Low-Density Residential District, the following uses and their accessory uses are permitted:

1. Single family detached dwelling.

2. Prefabricated dwelling.

3. Customary accessory buildings or structures, including private garages and non-commercial workshops, provided they are located in the side or rear yard and not closer than five (5) feet to any lot line.

4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.

5. Essential Public Transport, Communication and Utility Services.

C. Uses Permitted as Special Exceptions:

In the R-2, Low-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Educational Facilities.
2. Religious Facilities.
3. Cultural and Recreation Services.
4. Government Administrative Services.
5. Family Day Care Home.
6. Farms.
7. Radio and television towers, and transmission facilities, water storage facilities and water and sewage treatment plants.
8. Bed and Breakfast.
9. Accessory apartment.

D. Uses Prohibited:

Mobile home parks; advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-2, Low-Density Residential shall comply with the following requirements except as provided in ARTICLE VI.

1.

Minimum Lot Size

Area - Single Family Detached Dwelling	12,000 SF
Area/Family - Single Detached	12,000 SF
Lot Width at Building Setback Line	75 Feet

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	12 Feet*
Rear Setback	20 Feet

*Side setbacks can be reduced to a total of twenty-two (22) feet for two (2) lots side by side if the subdivider wishes to submit a subdivision plat for Planning Commission approval showing all four setbacks on each lot. One lot would have a side setback of a minimum of ten (10) feet while the lot immediately adjacent would have a side setback of a minimum of twelve (12) feet on the sides that are adjacent. The other side of each lot would require the opposite minimum setback, i.e., if one side is ten (10) feet the other side would be twelve (12) feet and vice versa.

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall not exceed thirty-five (35) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.051.3 R-3, Medium Density Residential.

A. District Description:

This district is designed to provide suitable areas for medium density residential develops shown hereon complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated.

Most generally this district will be characterized by single family detached dwellings and such other structures as are accessory thereto. As well, multi-family dwellings developed at a medium density as planned developments may also be allowed. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of the districts, or which are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-3, Medium Density Residential District, the following uses and their accessory uses are permitted:

1. Single family dwelling.

2. Prefabricated dwelling.

3. Customary accessory buildings or structures, including private garages and non-commercial workshops, provided they are located in the side or rear yard and not closer than five (5) feet to any lot line.

4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.

5. Essential Public Transport, Communication and Utility Services.

C. Uses Permitted as Special Exceptions:

In the R-3, Medium Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Boarding or Rooming House.
2. Educational Facilities.
3. Religious Facilities.
4. Cultural and Recreation Services.
5. Government Administrative Services.
6. Associations for Physically or Mentally Handicapped Persons.
7. Family and Group Care Facilities.
8. Nursing Homes.
9. Retirement or Rest Homes.
10. Orphanages.
11. Family Day Care Home.
12. Radio and television towers, and transmission facilities, water storage facilities, and water and sewage treatment plants.
13. Bed and Breakfast.
14. Accessory apartment.

D. Uses Prohibited:

Mobile home parks; advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-3, Medium Density Residential shall comply with the following requirement except as provided in ARTICLE VI.

1.

Minimum Lot Size

Area - Single Family Detached Dwelling	10,000 SF
Area/Family - Single Detached	10,000 SF
Lot Width at Building Setback Line	75 Feet

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	10 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed thirty-five (35) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.051.4 R-4, Medium-Density Residential District.

A. District Description:

This district is designed to provide suitable areas for medium-density residential development where sufficient urban facilities are available or where such facilities will be available prior to development. Most generally this district will be characterized by two-family (duplex) detached dwellings and zero-lot line developments as well as single-family developments. This district is intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or which installations are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-4, Medium-Density Residential District, the following uses and their accessory uses are permitted:

1. Duplex dwelling.
2. Zero-lot line dwelling.
3. Single-family dwelling.
4. Prefabricated dwelling.
5. Board and rooming houses.
6. Customary accessory buildings including private garages and non-commercial workshops provided they are located in the side or rear yard and not closer than five (5) feet to any lot line.
7. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040.
8. Essential Public Transport, Communication, Government, and Utility Services

C. Uses Permitted as Special Exceptions:

In the R-4, Medium-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Community Assembly.
2. Religious Facilities.
3. Educational Facilities.
4. Cultural and Recreation Services.
5. Associations for Physically or Mentally Handicapped Persons.
6. Family and Group Care Facilities.
7. Nursing Homes.
8. Retirement or Rest Homes.
9. Orphanages.
10. Family Day Care Home.
11. Government Administrative Services.
12. Mobile home parks as regulated in ARTICLE IV, SECTION 4.090.
13. Radio and television towers, and transmission facilities, water storage facilities, and water and sewage treatment plants.
14. Family Day Care Home.
15. Bed and Breakfast.
16. Accessory apartment, eligible only on a parcel where the principal use is one detached single-family dwelling. The consideration of an accessory apartment shall not be for

lots containing duplexes, zero-lot line dwellings, or any other residential or non-residential primary uses.

D. Uses Prohibited:

Uses not specifically permitted or uses not permitted on approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-4, Medium-Density Residential District shall comply with the following requirements except as provided in ARTICLE VI.

1.

Minimum Lot Size

Area - Dwelling	Duplex Dwelling	10,000 SF
	Two Family Zero Lot	10,000 SF
	Single Family Dwelling	6,000 SF
Area - Family	Family Duplex	5,000 SF
	Two Family Zero Lot Line Dwelling	5,000 SF
Lot Width	Duplex	75 Feet / 37.5 Feet (At Building Setback Line)
	Single Family	75 Feet (At Building Setback Line)

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	10 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty (40) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed three (3) stories or thirty-five (35) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall FAA glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.051.5 R-5, High-Density Residential District.

A. District Description:

This district is designed to provide suitable areas for high-density residential development where sufficient urban infrastructure is available, or will be made available prior to development. This district is characterized by residential structures such as mobile homes situated on individual zone lots, as well as by mobile home parks developed at higher densities. Within such parks, individual mobile homes are developed for rental purposes on sites containing at least 2 acres. Specific design standards are cited therewith, in Section 4.090, in order to achieve quality developments, as well as to protect property values within the district. This district is intended also to permit community facility and public utility facilities and services which are necessary to service and do service specifically the residents of the district, or which installations are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-5, High-Density Residential District, the following uses and their accessory uses are permitted:

1. Mobile homes on single lots.

2. Customary accessory buildings including private garages and non-commercial workshops, provided they are located in the side or rear yard and not closer than five (5) feet to any lot line.

3. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040.

4. Essential Public Transport, Communication, Government, and Utility Services.

C. Uses Permitted as Special Exceptions:

In the R-5, High-Density Residential District, the following uses may be permitted as special exceptions after review and approval in accordance with the provisions cited in ARTICLE VII, SECTION 7.060.

1. Community Assembly.
2. Religious Facilities.
3. Educational Facilities.
4. Cultural and Recreation Services.
5. Mobile home parks as regulated in ARTICLE IV, SECTION 4.090.
6. Associations for Physically or Mentally Handicapped Persons.
7. Family and Group Care Facilities.
8. Nursing Homes.
9. Retirement or Rest Homes.
10. Orphanages.
11. Family Day Care Homes.
12. Government Administrative Services.
13. Radio and television towers and transmission facilities, and water and sewage treatment plants and water storage facilities.
14. Bed and Breakfast.

D. Uses Prohibited:

Uses not specifically permitted, or uses not permitted on approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-5, High-Density Residential District shall comply with the following requirements except as provided in ARTICLE VI.

1.

Minimum Lot Size

Area - Dwelling	Mobile Home - Single Lot	10,000 SF
	Mobile Home Park	2 Acres
Area - Family	Mobile Home - Single Lot	10,000 SF
Mobile Home Park	Single-Wide Unit	4,400 SF
	Double-Wide Unit	6,000 SF
Lot Width	Mobile Home - Single Lot	70 Feet
	Mobile Home Park	N/A - See Section 4.090 of Article IV for Applicable Standards

2.

Minimum Yard Requirements

Front Setback	Mobile Home on Single Lot	35 Feet
	Mobile Home Park	30 Feet
	Single Mobile Home Within Park	10 Feet
Side Setback	Mobile Home on Single Lot	10 Feet
	Mobile Home Park	15 (30*) Feet
	Single Mobile Home Within Park	30 Feet Between Units
Rear Setback	Rear Home on Single Lot	20 Feet
	Mobile Home Park	10 (30*) Feet
	Single Mobile Home Within Park	20 Feet Between Units

3. Maximum Lot Coverage:

- Mobile Home on Single Lot: On any lot or parcel of land, the area occupied by buildings or structures, including accessory structures, may not exceed forty (40) percent of the total area of such lot or parcel.

- Mobile Home Parks: See Standards Cited in Article IV, Section 4.090.

4. Height Requirements:

   - Mobile Home on Single Lot: No mobile home shall exceed thirty (30) feet in height. In no case shall F.A.A. glide path building height restrictions be exceeded.

   - Mobile Home Parks: No building, structure, or mobile home shall be erected or placed within any mobile home park having a height greater than thirty (30) feet.

5.051.6 R-6, High-Density Residential District.

A. District Description:

This district is designed to provide suitable areas for high-density residential development where sufficient urban facilities are available or where such facilities will be available prior to development. Most generally this district will be characterized by residential structures each containing a multiple number of dwelling units. This district is intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or which installations are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all building or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted:

In the R-6 High-Density residential District, the following uses and their accessory uses are permitted:

1. Multi-family dwelling.

2. Board and rooming houses.

3. Customary accessory buildings including private garages and non-commercial workshops provided they are located in the side or rear yard and not closer than five (5) feet to any lot lines.

4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040

5. Essential Public Transport, Communications, Government, and Utility Service.

C. Uses Permitted as Special Exceptions:

In the R-6, High-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECITON 7.060.

1. Community Assembly.
2. Religious Facilities.
3. Educational Facilities.
4. Cultural and Recreation Services.
5. Associations for Physically or Mentally Handicapped Persons.
6. Family and Group Care Facilities.
7. Nursing Homes.
8. Retirement or Rest Homes.
9. Orphanages.
10. Family Day Care Home.
11. Government Administrative Services.
12. Mobile home parks as regulated in ARTICLE IV, SECTION 4.090.
13. Radio and television towers, and transmission facilities, water storage facilities and water and sewage treatment plants.
14. Family Day Care Home.
15. Bed and Breakfast.

D. Uses Prohibited:
Uses not specifically permitted or uses not permitted on approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the R-6, High-Density Residential District shall comply with the following requirement except as provided in Article VI.

1.

Minimum Lot Size

Area	15,000 SF
Area/Family	3,000 SF
Lot Width at Building Setback Line	75 Feet

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	10 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty (40) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed thirty-five (35) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010

5.052 Commercial Districts.

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

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.

2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.

3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.

4. To provide sufficient space in appropriate locations for commercial districts to satisfy functional needs of Smyrna, and in particular the need for medical services and the needs of the general public traveling along major highways.

5. To provide sufficient space in appropriate locations for the mixture of compatible high-density residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.

6. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.

7. To enhance the central business district and to promote and protect its service attributes, to lessen congestion in the district, to provide for high intensity of land use consistent with land valuation, and to protect its intended functional aspects against encroachment by detrimental influences.

8. To promote the most desirable use of land and direction of building development in accord with a well considered plan, to promote stability of commercial development, to strengthen the economic districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect Smyrna's tax revenues.

5.052.1 C-1, Central Business District.

A. District Description

This district is designed to provide for a wide range of retail, office, amusement, and service uses, and light industrial processes involving high performance standards. In addition, this district provides for governmental uses, and community facilities and utility necessary to serve the district or which are required for the general community welfare. The regulations are structured to permit maximum freedom of pedestrian movement. Relatively high density and intensity of use is permitted in this district.

B. Uses Permitted

In the C-1, Central Business District, the following uses and their accessory uses are permitted:

1. Government administrative services.
2. Community assembly.
3. Automotive parking.
4. Convenience retail sales and services.
5. Consumer repair services.
6. Entertainment and amusement services.
7. Financial, insurance, real estate, and consulting services, except alternative financial services.
8. Food and beverage services.
9. General business services, except bail bond agencies.
10. General personal services.
11. General retail trade.
12. Professional services - medical.

13. Professional services - non medical.

14. Transient habitation excluding sporting and recreational vehicle camps.

15. Religious Facilities.

16. Signs as regulated by Town ordinance.

17. Essential public transport, communication, and utility services.

C. Uses Permitted as Special Exceptions:

In the C-1, Central Business District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Limited manufacturing conducted in completely enclosed building.

2. Upper story residential dwelling as per the supplemental requirements cited in Section E.6. below, as well as the requirements cited in ARTICLE VII, SECTION 7.060.C.9.

3. Day Care Centers.

4. Microbrewery/Microwinery/Microdistillery.

D. Uses Prohibited:

Industrial uses; warehousing and storage uses; except those which are located within and incidental to permitted uses; automobile wrecking, junk, and salvage yards; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the C-1, Central Business District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: No minimum lot size shall be required in the C-1 Districts.

2.

Minimum Yard Requirements

Front Setback	25 Feet*
	*Note: If a building or buildings on an adjacent lot or lots provide front yards less than twenty (20) feet in depth, a front yard equal to the average of adjacent front yards shall be provided.
Side Setback	None*
	*Note: If an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.
Rear Setback	20 Feet

3. Maximum Lot Coverage: There are no restrictions on the area occupied by all buildings including accessory buildings on a lot or parcel located in the C-1 District.

4. Height Requirements: The maximum height of all buildings located in the C-1 District shall be established as follows, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

    a. The maximum building height at the street line shall be four (4) stories or fifty (50) feet.

    b. For each foot the building is setback from the street line, the height of the building may be increased by 1.5 feet to a maximum height of sixty-five (65) feet.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

6. Minimum Floor Area - Upper Story Residential Dwelling: The minimum floor area for an upper story residential dwelling unit shall be five hundred (500) square feet.

5.052.2 C-2, General Commercial District.

A. District Description:

This district is designed to provide adequate space in appropriate locations for uses, which serve the needs of the motoring public. Moderate and large sized offices, general retail businesses, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts or those which are necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize compatibility with lesser intense use of land or building in proximate residential districts. Appropriate locations for these districts are along major traffic arteries. Such districts should be situated near major transportation interchanges in clustered developments patterns, and not patterns of stripped commercial development extending in a continuous manner along such major traffic arteries.

B. Uses Permitted:

All uses permitted in C-1 are allowed in this district as well as the following uses:

1. Government administrative services.
2. Cultural and recreational services.
3. Essential public transport, communication, and utility services.
4. Building materials and farm equipment sales.
5. Contract construction services provided there is no outdoor storage.
6. Convenience retail sales and services.
7. Consumer repair services.
8. Entertainment and amusement services.
9. Financial, insurance, real estate, and consulting services.

10. Food and beverage services.

11. Food service; take out.

12. Animal care and veterinarian services provided there is no outside housing of animals.

13. General business services, except bail bond agencies.

14. General personal services.

15. General retail trade.

16. Professional services - medical.

17. Professional services - non medical.

18. Transient habitation: hotels, motels, tourist homes or courts.

19. Religious facilities.

20. Education facilities.

21. Signs as regulated by Town ordinance.

22. Community assembly.

23. Health care facilities.

24. Intermediate impact facilities.

25. Day Care Centers.

26. Family and Group Care Facilities.

27. Nursing Homes.

28. Retail Sales of Alcoholic Beverages.

C. Uses Permitted as Special Exceptions:

In the C-2, General Commercial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Transient habitation: Sporting and recreational vehicle camps.

2. Group assembly, other than racetracks and drag strips.

3. Car Washes and Automobile Detailing.

4. Microbrewery/Microwinery/Microdistillery.

5. Climate Controlled Self-Service Storage Facility.

D. Uses Prohibited:

Industrial uses; warehousing and storage uses; except those which are located within and incidental to permitted uses; or specifically allowed as special exceptions; truck terminals; junkyard, including automobile wrecking and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the C-2, General Commercial District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: 20,000 square feet.

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	15 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any area or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed seventy (70) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed forty (40) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirement: As regulated in ARTICLE IV, SECTION 4.010.

5.052.3 C-3, Restricted Commercial District.

A. District Description:

This district is designed to provide for the provision of general commercial trade and service uses to a vehicular oriented clientele. This district is restricted in location to those areas of the community that fall between certain portions of Lowry Street and the CSX Railroad Line. Due to the unique configuration of developable land within these areas, several of the yard requirements pertaining thereto have been modified in order to feasibly make use of such properties. In general, the various land uses allowed in the Highway Service Districts' are also permitted within all Restricted Commercial Zoning Districts.

B. Uses Permitted:

All uses permitted in the C-1 and C-2 Districts are permitted within the C-3 District, except the following:

1. Package Liquor Stores.

C. Uses Permitted as Special Exceptions:

In the C-3, Restricted Commercial District, no uses are permitted as special exceptions.

D. Uses Prohibited:

Industrial uses; warehousing and storage uses except those which are located within and incidental to permitted uses; truck terminals; junkyard, including automobile wrecking and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the C-3, Restricted Commercial District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: No minimum lot size shall be required in the C-3 District.

2.

Minimum Yard Requirements

Front Setback	None
Side Setback	15 Feet
Rear Setback	None

3. Maximum Lot Coverage: On any area or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed sixty (60) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed forty (40) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirement: As regulated in ARTICLE IV, SECTION 4.010.

5.052.4 C-4, Neighborhood Service Business District.

A. District Description:

This district is designed to provide for uses to serve the recurring household needs and personal service requirements of the occupants of nearby residential areas. The permitted establishments are those which provide for regular local shopping and which, therefore, are visited frequently by customers. These districts or characteristically are small, and are distributed widely for convenient accessibility by residential area occupants. They should adjoin collector or arterial streets. Bulk regulations are established within these districts to provide for maximum compatibility between the commercial activity in these districts and adjacent residential activity, and to lessen the concentration of vehicular traffic as compared to other commercial districts providing goods and services for a more extensive marketing area.

B. Uses Permitted:

In the C-4, Neighborhood Service Business District, the following uses and their accessory uses are permitted:

1. Community Assembly.
2. Cultural and Recreational Services.
3. General Business Services, except bail bond agencies.
4. Food and Beverage Service.
5. Professional Services – Medical.
6. Professional Services – Non-medical.
7. Financial, Insurance, Real Estate and Consultative Services, except alternative financial services.
8. General Personal Services.
9. Convenience commercial except for convenience markets where gas may be sold.
10. Antique and Second-Hand Merchandise Stores.
11. Book and Stationary Stores.
12. Florists.
13. Gift Shops.

14. Clothing and Accessory Stores.
15. Hobby, Toy, and Game Stores.
16. Religious Facilities.
17. Signs as regulated by Town ordinance.
18. Essential public transport, communication, and utility services.
19. Tourist home.

C. Uses Permitted as Special Exceptions:

In the C-4, Neighborhood Service Business District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Health Care Facilities.
2. Special Personal and Group Care Facilities.

D. Uses Prohibited:

In the C-4, Neighborhood Service Business District, all uses, except those uses or their accessory uses specifically permitted are prohibited, including retail liquor and package stores.

E. Dimensional Regulations:

All uses permitted in the C-4, Neighborhood Service Business District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: The minimum lot size in the C-4 District shall be 10,000 square feet.

2.

Minimum Yard Requirements

Front Setback	25 Feet
Side Setback	15 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed sixty (60) percent of the total lot area of such lot or parcel.

4. Height Requirements: Buildings shall not exceed thirty-five (35) feet in height except as provided in Article VI, Section 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5.052.5 P-O-1, Professional and Office District.

A. District Description:

This district is designed to provide adequate space in appropriate locations suitable for accommodating the population needs of medical, personal services, and uses broadly ancillary thereto; and to provide for financial services as well as professional offices. In addition, limited commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting this district.

Community facilities and utilities necessary to serve this district, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in this district, in part, are designed to maximize compatibility with lesser intense use of land or building in proximity to residential districts.

B. Uses Permitted:

In the P-O-1, Professional and Office District, the following uses and their accessory uses are permitted.

1. Financial, insurance, real estate, and consulting services, except alternative financial services.

2. Professional services - medical.

3. Professional services - non medical.

4. Government Administrative Services

5. Signs as regulated by Town ordinance.

6. Essential public transport, communication, and utility services.

C. Uses Permitted as Special Exceptions:

In the P-O-1, Professional and Office District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. General personal services.
2. Health Care Facilities.
3. Community Assembly.
4. Special Personal and Group Care Facilities.

D. Uses Prohibited:

Outdoor storage of goods or materials or equipment; warehousing or indoor storage of goods or material, beyond that normally incidental to the above permitted uses; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the P-O-1, Professional and Office District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: 10,000 sq. ft.

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	15 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed sixty (60) percent of the total area of such lot or parcel.

4. Height Requirements: No buildings shall exceed forty (40) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements; As regulated in ARTICLE IV, SECTION 4.010.

5.052.6 P-O-2, Professional and Office District.

A. District Description:

This district is designed to provide adequate space in appropriate locations suitable for accommodating the population needs of medical, personal services, and uses broadly ancillary thereto; and to provide for financial services as well as professional offices. In addition, limited commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting this district.

Community facilities and utilities necessary to serve this district, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in this district, in part, are designed to maximize compatibility with lesser intense use of land or building in proximity to residential districts.

B. Uses Permitted:

In the P-O-2, Professional and Office District, the following uses and their accessory uses are permitted.

1. Financial, insurance, real estate, and consulting services, except alternative financial services.

2. Professional services - medical.

3. Professional services - non medical.

4. Government Administrative Services.

5. General business services, except bail bond agencies.

6. General personal services.

7. Health care facilities.

8. Signs as regulated by Town ordinance.

9. Essential public transport, communication, and utility services.

C. Uses Permitted as Special Exceptions:

In the P-O-2, Professional and Office District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Community Assembly.
2. Special Personal and Group Care Facilities.

D. Uses Prohibited:

Outdoor storage of goods or materials or equipment; warehousing or indoor storage of goods or material, beyond that normally incidental to the above permitted uses; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the P-O-2, Professional and Office District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: 10,000 sq. ft.

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	15 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed sixty (60) percent of the total area of such lot or parcel.

4. Height Requirements: No buildings shall exceed forty (40) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements; As regulated in ARTICLE IV, SECTION 4.010.

5.052.7 C-5, Highway Service District.

A. District Description:

This district is designed to provide adequate space in appropriate locations for uses, which serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts or those which are necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize compatibility with lesser intense use of land or building in proximate residential districts. Appropriate locations for these districts are along major traffic arteries. Such districts should be situated near major transportation interchanges in clustered developments patterns, and not patterns of stripped commercial development extending in a continuous manner along such major traffic arteries.

B. Uses Permitted:

All uses permitted in C-1 are allowed in this district as well as the following uses:

1. Government administrative services.
2. Cultural and recreational services.
3. Essential public transport, communication, and utility services.
4. Building materials and farm equipment sales.
5. Contract construction services provided there is no outdoor storage.
6. Convenience retail sales and services.
7. Consumer repair services.
8. Entertainment and amusement services.
9. Financial, insurance, real estate, and consulting services.

10. Food and beverage services.
11. Food service; take out.
12. Animal care and veterinarian services provided there is no outside housing of animals.
13. General business services.
14. General personal services.
15. General retail trade.
16. Professional services - medical.
17. Professional services - non medical.
18. Transient habitation: hotels, motels, tourist homes or courts.
19. Vehicular, marine craft, aircraft, and related equipment sales, rental and delivery, except for motor vehicle dealers (new and used), motorcycle dealers, boat dealers, and recreational and utility trailer dealers.
20. Limited manufacturing conducted in completely enclosed building.
21. Religious facilities.
22. Education facilities.
23. Wholesale sales provided there is no outdoor storage.
24. Signs as regulated by Town ordinance.
25. Community assembly.
26. Health care facilities.
27. Intermediate impact facilities.

28. Day Care Centers.

29. Family and Group Care Facilities.

30. Nursing Homes.

31. Tobacco, Vape and Cannabinoid Retail Establishment.

C. Uses Permitted as Special Exceptions:

In the C-5, Highway Service District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Transient habitation: Sporting and recreational vehicle camps.

2. Group assembly, other than racetracks and drag strips.

3. Motor vehicle dealers (new and used), motorcycle dealers, boat dealers, and recreational and utility trailer dealers.

4. Automotive service and repair, except for auto towing services.

5. Climate Controlled Self-Service Storage Facility.

D. Uses Prohibited:

Industrial uses; warehousing and storage uses; except those which are located within and incidental to permitted uses; or specifically allowed as special exceptions; truck terminals; junkyard, including automobile wrecking and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the C-5, Highway Service District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: 1 Acre

2.

Minimum Yard Requirements

Front Setback	35 Feet
Side Setback	15 Feet
Rear Setback	20 Feet

3. Maximum Lot Coverage: On any area or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed seventy (70) percent of the total area of such lot or parcel.

4. Height Requirements: No building shall exceed forty (40) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirement: As regulated in ARTICLE IV, SECTION 4.010.

5.053 Industrial Districts.

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

1. To provide sufficient space, in appropriate locations to meet the needs of the area of Smyrna's expected economic expansion for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.

2. To protect distributive, industrial and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provided that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.

3. To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.

4. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.

5. To protect industrial activities and related development against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.

6. To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base

of the Smyrna area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect Smyrna's tax revenues.

5.053.1 I-1, Light Industrial District.

A. District Description:

This district is primarily designed to accommodate existing industrial area within the community that area relatively limited in their amount of developable acreage, due to the pre-existing layout of streets and blocks within such areas. Within this district therefore, the necessary yard requirements are less restrictive than those cited within the I-2 Light Industrial District. The I-1 District is designed for a wide range of industrial and related uses which conform to a high level of performance standards. Industrial establishments of this type, within completely enclosed buildings, provide a buffer between Commercial Districts and other industrial uses which involve more objectionable nuisances. New residential development is excluded from this district, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities which provide needed services to industrial development are permitted.

B. Uses Permitted.

In the I-1, Light Industrial District, the following uses and accessory uses are permitted:

1. Warehousing goods transport and storage.
2. Airports, air cargo terminals, and heliports.
3. Wholesale sales.
4. Limited manufacturing.
5. Intermediate manufacturing.
6. Aircraft dealers.
7. Animal care and veterinary services.
8. Agricultural activities.
9. Essential public transport, communication, and utility services.

10. Signs as regulated by Town ordinance.

11. Plant and forest nurseries.

12. Building materials and farm equipment sales.

13. Dairies and truck gardens.

14. Auto towing services.

15. Tobacco, Vape and Cannabinoid Retail Establishment.

C. Uses Permitted as Special Exceptions

In the I-1, Light Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Group assembly, other than racetracks (auto, motorcycle, dog, and horses), and drag strips.

2. Food and beverage service.

3. Food service take-out.

4. Commercial recreation.

5. Contract construction services.

6. Consumer repair services.

7. Intermediate impact facilities.

8. Government administrative services.

9. Automotive service and repair, except for auto towing services.

10. Convenience commercial.

11. General business service.

12. General personal service.

13. General retail trade.

14. Boat dealers.

15. Religious facilities.

16. Entertainment and Amusement Services

D. Uses Prohibited

Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the I-1, Light Industrial District shall comply with the following requirements except as provided in ARTICLE VI. (Non-conforming uses):

1. Minimum Lot Size: No minimum lot size is required in the I-1 District.

2.

Minimum Yard Requirements

Front Setback	30 Feet
Side Setback	20 Feet
Rear Setback	25 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed sixty (60) percent of the total lot area of such lot or parcel.

4. Height Requirements: No building shall exceed F.A.A. glide path restrictions except as provided in Article VI, Section 6.050 and in no case shall any building exceed fifty (50) feet in height.

5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

5.053.2 I-2, Light Industrial District.

A. District Description:

This district like the I-1 District is designed for a wide range of industrial and related uses which conform to a high level of performance standards. Industrial establishments of this type, within completely enclosed buildings, provide a buffer between Commercial Districts and other industrial uses which involve more objectionable influences. New residential development is excluded from this district, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities which provide needed services to industrial development are permitted.

B. Uses Permitted:

In the I-2, Light Industrial District, the following uses and their accessory uses are permitted:

1. Warehousing, goods transport and storage.
2. Airports, air cargo terminals, and heliports.
3. Wholesale sales.
4. Limited manufacturing.
5. Intermediate manufacturing.
6. Aircraft dealers.
7. Animal care and veterinary services.
8. Essential public transport, communication, and utility services.
9. Signs as regulated by Town ordinance.
10. Plant and forest nurseries.
11. Building materials and farm equipment sales.
12. Dairies and truck gardens.

13. Auto towing services.

14. Tobacco, Vape and Cannabinoid Retail Establishment.

C. Uses Permitted as Special Exceptions:

1. Group assembly, other than racetracks (auto, motorcycle, dog, and horses), and drag strips.

2. Food and beverage service.

3. Food service take-out.

4. Commercial recreation.

5. Contract construction services.

6. Consumer repair services.

7. Intermediate impact facilities.

8. Government administrative services.

9. Automotive service and repair, except for auto towing services.

10. Convenience commercial.

11. General business service.

12. General personal service.

13. General retail trade.

14. Religious facilities.

D. Uses Prohibited:

Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the I-2, Light Industrial District shall comply with the following requirements except as provided in ARTICLE VI, SECTION 6.020(Non-conforming uses):

1. Minimum Lot Size: No minimum lot size is required in the I-2 District.

2.

Minimum Yard Requirements

Front Setback	60 Feet
Side Setback	30 Feet
Rear Setback	30 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total lot area of such lot or parcel.

4. Height Requirements: No building shall exceed F.A.A. glide path restrictions except as provided in Article VI, Section 6.050 and in no case shall any building exceed fifty (50) feet in height.

5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

5.053.3 I-3, Heavy Industrial District.

A. District Description:

This district is designed to accommodate industrial uses which involve more objectionable influences and hazards, and which therefore, cannot be reasonably expected to conform to a high level of performance standards, but which are essential for the economic viability of the Smyrna area. No new residential developments are permitted, thereby insuring protection of such developments from an undesirable environment while at the same time ensuring adequate areas for industrial activities.

B. Uses Permitted:

In the I-3, Heavy Industrial District, the following uses and their accessory uses are permitted:

1. All uses that are permitted in the I-1, and I-2 Light Industrial District.
2. Extensive manufacturing, with the exception of; ordinance and accessories manufacturing, and junk yard.
3. Extensive impact facilities.
4. Signs as regulated by Town ordinance.
5. Farm equipment and supplies.
6. Feed milling and sales.
7. Lumber and other building material dealers.
8. Seed and storage sales.
9. Building materials and farm equipment sales.
10. Farms.

C. Uses Permitted as Special Exceptions:

In the I-3, Heavy Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Group assembly activities, other than schools for profit, colleges and universities, technical and trade schools, commercial resorts, and commercial campgrounds.

2. Outdoor storage materials to be used in manufacturing.

3. Mining and quarrying.

4. Feed lots and stock yards.

5. Ordinance and accessories manufacturing.

6. Wrecking, junk, and/or salvage yards.

7. Automotive wrecking yards.

8. Automotive Service and Repair Facilities, except for auto towing facilities.

9. Adult-oriented establishments.

10. Special Institutional Care Facilities.

D. Uses Prohibited:

Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the I-3, Heavy Industrial District shall comply with the following requirements except as provided in ARTICLE VI, SECTION 6.020 (nonconforming uses):

1. Minimum Lot Size: No minimum lot size is required in the I-3 District.

2.

Minimum Yard Requirements

Front Setback	100 Feet
Side Setback	50 Feet
Rear Setback	50 Feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.

4. Height Requirements: No buildings shall exceed eighty (80) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In no case shall F.A.A. glide path building height restrictions be exceeded.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.054 Floodway District.

The Floodway District established by this ordinance is designed to promote the public health, safety, and general welfare and to minimize or eliminate loss of life and property, health and safety hazards, disruption of commerce and governmental services, unusual public expenditures for flood protection and relief, and impairment of the tax base by provisions designed to prohibit or restrict developments which are dangerous to health, safety, or property in times of flood or which cause undue increases in flood heights or velocities; to require that developments vulnerable to floods, including public facilities which serve such development, shall be protected against flood damage at the time of initial construction; and to protect individuals from purchasing lands which are unsuitable for development purposes because of flood hazard.

5.054.1 F-1, Floodway District.

A. Floodways Established

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural cases, such as channel siltation or bridge openings restricted by debris. This ordinance shall not create a liability on the Town of Smyrna or an officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Floodways are hereby established for the purpose of meeting the needs of the streams to safely carry floodwaters; to protect the stream channels and their floodplains from encroachment so that flood heights and flood damages will not be appreciably increased; to provide the necessary regulation for the protection of the public health and safety in areas subject to flooding; and to reduce the financial burdens imposed on the community by floods. In applying the provisions of this ordinance, floodways shall be defined as established in Article IX of this ordinance.

B. Uses Permitted:

In the F-1, Floodway District, the following open-type uses are permitted in the floodway subject to the approval of the Planning Commission and to such conditions as the Planning Commission may specify to preserve the character of adjoining districts and to protect the public interest.

1. Uses permitted in floodway adjacent to residential districts.

a. Agriculture and forestry, general farming, truck gardening, cultivation of field crops, orchards, nurseries, turf farming, livestock grazing, and other uses of a similar nature.

b. Open-type public and semi-public recreational uses or facilities such as golf courses, driving ranges, archery ranges, picnic grounds, parks, playgrounds, and other uses of a similar nature provided no principal structure is located within the floodway.

c. Yard areas, lawns, green and open spaces, wildlife habitat and refuges, hiking trails, nature trails, bikeways, and other uses of a similar nature.

d. Railroads, streets, bridges, and public or private utilities.

e. Marinas and boat launching ramps provided that no principal buildings are located within a floodway.

2. Uses permitted in floodway adjacent to commercial and industrial districts.

a. Any of the above permitted uses.

b. Loading and unloading areas, parking lots, and other uses of a similar nature provided no principal structure is located within the floodway.

C. Uses Prohibited:

All uses not expressly permitted shall be prohibited.

D. Other Regulations:

Notwithstanding any provision to the contrary, under all circumstances Article IX of this ordinance must be followed with regards to the F-1 Floodway District.

5.055 A-1, Airport District.

A. District Description:

The A-1 Airport District is designed to accommodate airport uses which involve objectionable influences and hazards, and therefore, cannot be reasonably expected to conform to a high level of performance standards, but which are essential for the economic viability of the area. No new residential developments are permitted, thereby ensuring protection of such developments from an undesirable environment while at the same time ensuring adequate areas for airport activities. The uses accommodated within this district would allow for development suitable to an airport. The A-1, Airport District is designed to provide adequate space in appropriate locations for uses that serve the needs of the motoring and aviation related public. The A-1, Airport District should serve the major transportation interchanges of vehicle, rail and air transportation.

B. Uses Permitted:

In the A-1, Airport District, the following uses and their accessory uses are permitted:

1. All uses allowed in the I-3 Heavy Industrial District.
2. Government administrative services.
3. Automotive parking.
4. Consumer repair services.
5. Financial, insurance, real estate and consulting services, except alternative financial services.
6. General business services.
7. General personal services.
8. Professional services – medical.
9. Professional services – non-medical.
10. Cultural and recreational services.
11. Food and beverage services.
12. Food service; takeout.

13. Transient habitation; hotels, motels, tourist homes or courts.

14. Motor vehicle rentals.

15. Intermediate impact facilities.

16. Technical or Trade Schools.

17. Colleges or Universities.

18. Signs as regulated by Town ordinance.

19. Essential public transport, communication, and utility services.

20. Community assembly.

C. Uses Permitted as Special Exceptions:

In the A-1, Airport District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Entertainment and amusement services.

2. General retail trade.

3. Automotive service and repair.

4. Contract construction services.

D. Uses Prohibited:

Uses not specifically permitted.

E. Dimensional Regulations:

All uses permitted in the A-1, Airport District shall comply with the following requirements except as provided in ARTICLE VI, SECTION 6.020 (nonconforming uses):

1. Minimum Lot Size: No minimum lot size is required in the A-1 District.

2.

Minimum Yard Requirements

Front Setback	50 Feet
Side Setback	25 Feet
Rear Setback	25 Feet

The front setback is measured from the edge of the public road right-of-way.

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.

4. Height Requirements: Buildings shall not exceed eighty (80) feet in height, except as provided in ARTICLE VI, SECTION 6.050. In all cases the Code of Federal Regulations 14, Part 77 shall be met.

5. Parking Space Requirements: As regulated in ARTICLE IV, SECTION 4.010.

5.056 H-1, Historic Overlay District.

A. District Description:

The H-1 Historic Overlay District is designed for the purposes of protecting and preserving the heritage of historic sites in the Town; safeguarding the character and heritage of the Town by preserving the District as a whole and individual property therein that embodies important elements of the social, economic, cultural, political or architectural history of the Town; promoting and conserving the District for the education, pleasure, and enrichment of residents of the Town; creating an aesthetic atmosphere and fostering civic beauty; stabilizing and enhancing property values throughout the District; enhancing the attraction of the Town to tourists and visitors; and promoting the education and patriotic heritage of the present and future citizens of the Town, all of which purposes contribute to the improvement and general health and welfare of the Town and the residents of the District.

B. Uses Permitted:

The uses permitted in the underlying district shall be permitted in the H-1 Historic Overlay District.

C. Uses Permitted as Special Exceptions:

The uses permitted in the underlying zone as special exceptions shall be permitted as special exceptions in the H-1 Historic Overlay District.

D. Uses Prohibited:

Uses not specifically permitted in the underlying zoning district are not permitted in the H-1 Historic Overlay District.

E. Dimensional Regulations:

All dimensional regulations shall be as required in the underlying zoning district.

F. Procedure for Establishment of an H-1 Historic Overlay District:

The H-1 Historic Overlay District classification may be superimposed in addition to existing zoning classifications subject to the following guidelines:

1. Historic Zoning Commission Recommendation Required

   Recommendations for the establishment of H-1 Historic Overlay District zoning overlays shall be submitted by the Historic Zoning Commission to the Planning Commission. At that point, the recommendation shall proceed as specified in Article VII, Section 7.090. These recommendations may originate from the Historic Zoning Commission through its own initiative or from a request submitted by property owners to the Commission.

2. Criteria for Recommendation of H-1 Historic Overlay District

   Prior to submitting a recommendation to the Planning Commission for the establishment of a H-1 Historic Overlay District, the Commission shall determine that the area being recommended meets one (1) or more of the following criteria:

   a. It is associated with an event which has made a significant contribution to local, state, or national history;
   b. It includes structures associated with the lives of persons significant in local, state, or national history;
   c. It contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
   d. It has yielded or may be likely to yield archaeological information important in history or prehistory; or
   e. It is listed in the National Register of Historic Places.

3. Review Guidelines

   Prior to the establishment of a H-1 Historic Overlay District, the Commission shall adopt for such district a set of review guidelines which it will apply in ruling upon the granting or denial of a certificate of appropriateness. Such review guidelines shall be consistent with the purposes of this ordinance and with regulations and standards adopted by the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended, applicable to the construction, alteration, rehabilitation, relocation, or demolition of any building, structure or other improvement situated within a H-1 Historic Overlay District. Prior to adoption of review guidelines for a District, the Commission shall hold a public hearing. The Commission shall notify property owners in the affected area at least 10 calendar days prior to the date of the public hearing of the date, time, and place of the public hearing, as well as giving them a copy of the proposed guidelines. In addition, notice of public hearing shall be published in a newspaper of general circulation in Smyrna at least 15 days prior to the date of public hearing.

G. Administration:

1. No building permit for construction, alteration, rehabilitation, moving or demolition to be conducted within the H-1 Historic Overlay District shall be issued by the Building Official until the project has been submitted to, and received a written certificate of appropriateness from, the Commission.

2. Administration shall be by the Town Planner and the Commission, and all items regulated within the H-1 Historic Overlay District shall be submitted to the Commission through the Planning Department for review.

3. Building permit required. All alterations, additions, or new construction which, previous to the establishment of the H-1 District, required that application be made for a building permit shall continue to require that application be made for a building permit, and approval obtained before the work on such alterations, additions, or new construction can begin. In addition, it shall be required that application be made in the same manner for any work, including but not limited to alterations, additions, demolition, removal or new construction, which alters or contributes to the exterior appearance of existing structures.

H. Maintenance and Repair of Improvements:

Every person in charge of an improvement in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair.

I. Remedying of Dangerous Conditions:

In any case where the Town shall order or direct the construction or removal, alteration, or demolition of any improvement in a historic district for the purpose of remedying conditions determined to be dangerous to life, health, or property, nothing contained in this Section shall be construed as making it unlawful for any person, without prior issuance of a certificate of appropriateness, to comply with such order of direction. However, the Town shall give the Commission notice of any proposed order or direction which affects or may affect the exterior appearance of any structure, or site on or in the environs of a H-1 Historic Overlay District. The Commission shall be afforded adequate opportunity to

review and provide written comments upon any action proposed by an enforcement agency within a H-1 Historic Overlay District prior to the initiation of any said action.

J. Injunctive Powers and Penalties:

Where it appears that the owner or person in charge of an improvement on a landmark site or preservation site threatens to start, or has started, work in violation of this Section, then the Town shall apply to an appropriate court for an injunction against a violation of this Section. If an order of the court enjoining or restraining the violation does not receive immediate compliance, then the Town Attorney shall apply to an appropriate court to punish the violation pursuant to applicable law.

5.057 H-2, Height Overlay District.

A. District Description:

This district is designed to provide for building heights in appropriate locations that exceed the height limits in the base zoning district. All uses and dimensional regulations are governed by the base zoning district. In evaluating appropriate locations for this overlay district, it is imperative that the ability for fire and rescue personnel to accomplish their task is maintained. It is also imperative that the appropriateness of the building height in context with the surrounding area be considered when establishing this district.

B. Uses Permitted:

The uses permitted in the base zoning district shall be permitted in the H-2 Height Overlay District.

C. Uses Permitted as Special Exceptions:

The uses permitted in the base zoning district as special exceptions shall be permitted as special exceptions in the H-2 Height Overlay District.

D. Uses Prohibited:

Uses not specifically permitted in the base zoning district are not permitted in the H-2 Height Overlay District.

E. Dimensional Regulations:

All dimensional regulations shall be as required in the base zoning district, except as provided in ARTICLE VI and Item F of this Section.

F. Height Limitations:

There shall be no height limitation in the H-2 Height Overlay District. Said buildings and structures shall comply with all relevant state and local codes and all other conditions and provisions contained within the base zoning district.

5.058 LSO, Lowry Street Overlay District.

A. District Description:

Lowry Street serves as the historic central corridor through the Town of Smyrna. The Town seeks to preserve and enhance the existing cultural resources along this corridor while also establishing a new mixture of uses and facilitating economic vitality that will improve the visual character and function of the corridor. The LSO District shall supplement the standards of the base districts and provide measures to enhance the character of Lowry Street.

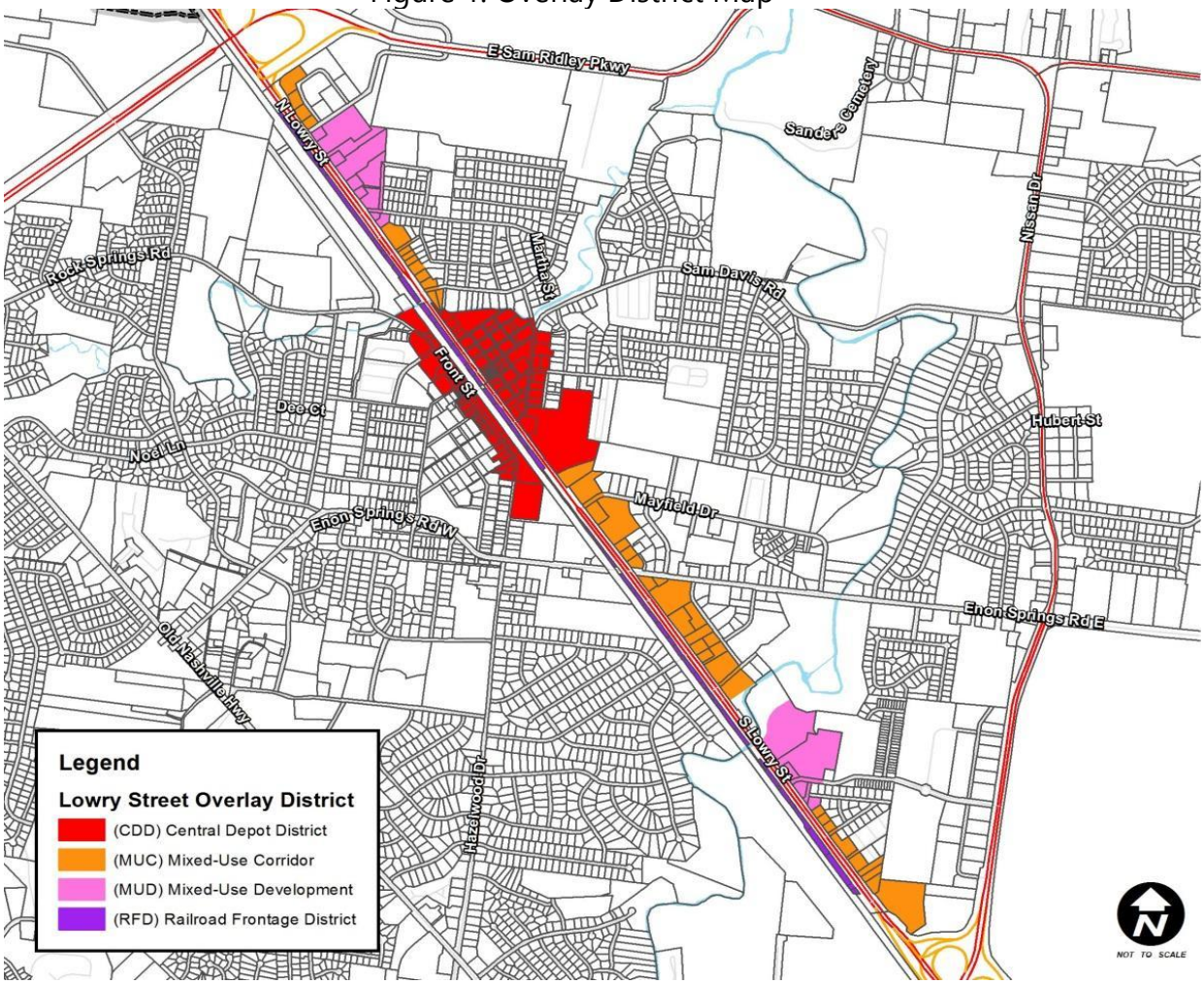
For the purpose of this ordinance and for the purpose of implementing the Lowry Street Revitalization Plan, the Lowry Street Overlay District is divided into the following sub-districts:

Abbreviation	Subdistrict Name
CDD	Central Depot District
MUD	Mixed-Use Development District
MUC	Mixed-Use Corridor District
RFD	Railroad Frontage District

B. Overlay District Map:

The Lowry Street Overlay District applies to property generally located along Lowry St, as shown in Figure 1: Overlay District Map. The map depicts the approximate location of the various sub-districts. This information is provided for reference purposes only, and in case of conflict between the map in this Subsection and the Official Zoning Map, the Official Zoning Map shall control.

Figure 1: Overlay District Map



C. Use of Lowry Street Overlay District

1. General Provisions

In addition to all other applicable provisions of this ordinance, the Lowry Street Overlay District may establish additional regulations for each of the sub-districts.

2. Transitional Provisions

a. New Development

Except as provided elsewhere in this section, upon the effective date of the Lowry Street Overlay District or any subsequent amendment, any new building, site plan development, or other new structure must be constructed or developed in accordance with all applicable provisions of the Lowry Street Overlay District. No excavation or filling of land or construction of any public or private improvements

may take place or commence except in conformity with the Lowry Street Overlay District.

b. Additions

Except as provided elsewhere in this section, upon the effective date of the Lowry Street Overlay District or any subsequent amendment, any addition to an existing building, buildings or site improvements must be constructed or developed in accordance with all applicable provisions of the Lowry Street Overlay District if any of the following criteria are met:

i. The addition or site improvement fronts a public right-of-way; or
ii. The gross footprint of the addition exceeds 25% of the gross floor area of the existing building or structure being modified.
iii. An addition of ten (10) or more parking spaces to the site, landscape and lighting criteria to be met.

Only additions or improvements that meet the above criteria are required to comply with the provisions of the Lowry Street Overlay District. Additions shall not force compliance of the whole building or entire site. Alterations to the existing building shall be considered Modifications and are subject to Section C.2.c.

c. Modifications

Except as provided elsewhere in this section, upon the effective date of the Lowry Street Overlay District or any subsequent amendment, any modification to an existing element of a building or buildings must comply with the provisions of the Lowry Street Overlay District if all of the following criteria are met:

i. The building element is regulated by this Article; and
ii. The proposed modification fronts a public right-of-way.

Only modifications that meet the above criteria are required to comply with the provisions of the Lowry Street Overlay District. Modifications shall not force compliance of the whole building.

d. Repair and Maintenance

Routine repairs and maintenance of an existing building or site are permitted and are not required to comply with the provisions of the Lowry Street Overlay District. If elements have deteriorated beyond the point where they can be retained, they shall be replaced in kind. Elements that are not replaced in kind shall be considered Modifications and are subject to Section C.2.c.

e. Previously Issued Permits and Pending Applications

Previously issued permits and pending applications will be processed in accordance with and decided pursuant to the law existing on the date the application was filed.

3. Conflicting Provisions

   In the event that there is a conflict between the provisions of this ordinance and those of the base district or the Design Review Manual, the provisions of this ordinance shall take precedence.

4. Administrative Procedures

   a. Prior to initiation of the development review procedure, an applicant shall determine the applicable sub-district for the subject parcels.
   b. Development within the Lowry Street Overlay District shall follow the design review procedures in Article VIII, Section 8.060 Design Review Applications and Processing.

5. Deviations from Standards

   a. Deviations from the design standards of this section may only be granted by the Planning Commission as part of the design review process, when such deviations will enhance the appearance and design of development subject to review.
   b. A request for deviations shall be submitted by the applicant in writing at the time of the initial filing of the application. The request shall state the deviation(s) requested; the grounds for the request; and the facts upon which the applicant is relying.
   c. The Planning Commission may approve the request if it determines the deviation(s) will not be detrimental to the health, safety, and welfare of the public; the grounds for the request are unique to the project; the deviations are necessary to achieve the design intent of the project; and the deviations are not contrary to the design intent of the Lowry Street Overlay.
   d. The Planning Commission may impose reasonable conditions or restrictions in granting deviation requests to protect the health, safety, and welfare of the public and meet the purposes of this ordinance.

D. Standards Applicable to All Sub-districts:

   The following standards are applicable to all sub-districts in the Lowry Street Overlay District.

1. Uses

   RESERVED

2. Site

   a. Streets and Blocks

      The development or redevelopment of large parcels shall be designed in a manner to create a network of streets and blocks that are connected to the existing street network including sidewalks. Streets, whether public or private, shall be designed to accommodate multiple modes of transportation including vehicles, pedestrians, and bicyclists. Streetscape design shall be accordance with the context of adjacent development. Development of blocks shall follow the standards for each sub-district.

3. Placement
    a. Setbacks are measured at a right angle from adjacent property line.
4. Height
    a. Height shall be measured in stories and feet. Measurement in feet shall be the vertical distance from the highest point of grade along the primary street building line to the bottom of the eave on a sloped roof or the highest point of the roof surface of a flat roof not including a parapet.
    b. Basements as defined by adopted building codes shall not be considered a story.
    c. Non-occupiable roof elements such as spires, cupolas, water towers, and similar structures may exceed the maximum height requirements.
    d. Chimneys, flagpoles, skylights, parapets and similar structures may exceed the maximum height requirements by 6 feet.
    e. Stairways to the roof, rooftop shade structures, elevator penthouses, and rooftop mechanical equipment may exceed the maximum height requirement by 10 feet.
    f. All buildings shall comply with current F.A.A. standards as they relate to the Smyrna / Rutherford County Airport Runways.
5. Articulation/Transparency
    a. Permitted attachments to street-facing facades shall meet the following requirements:
        i. Awnings/canopies shall have a minimum clear height above adjacent grade of 9 feet and a minimum depth of 6 feet. A modification to these standards may be approved by the Planning Commission to fit an awning/canopy on an existing building. Awning/canopy encroachments into a public right-of-way must be approved by the authority with ownership of the right-of-way. Awnings and canopies shall not be internally illuminated.
        ii. Balconies shall have a minimum clear height above grade of 9 feet and a minimum clear depth of 4 feet. Balconies shall not be fully enclosed. Balcony encroachments into a public right-of-way must be approved by the authority with ownership of the right-of-way.
        iii. Bay windows shall have visible support, either by extending the bay to grade with a foundation or transferring the projection back to the wall with beams, brackets, or brick corbeling.
        iv. Porches shall have a minimum clear depth of 6 feet excluding steps. Porches may not encroach into a public right-of-way. Porches shall not be fully enclosed.
        v. Stoops shall have a minimum clear depth of 4 feet. Stoops may not encroach into a public right-of-way. Stoops shall not be fully enclosed.
    b. Transparency requirements for facades are defined under each sub-district. Transparency shall be measured by dividing the area of windows and doors by the total facade area of a street-facing story.

6. Parking and Access

    a. Number of Spaces Required

        The amount of off-street parking required shall be in accordance with Article IV, Section 4.010 except as provided elsewhere in this Article.

    b. Access

        i. Access to parking areas shall be from the side or rear of lots when possible.
        ii. Entries to sites from public streets shall be clear, controlled and safe.
        iii. Combined or shared entries between properties shall be required on Lowry Street and collector streets within the Lowry Street Overlay District. No more than one curb cut shall occur per 100 feet of frontage.
        iv. Curb cuts shall be limited to 30 feet and driveway radii shall be kept to a minimum to facilitate pedestrian traffic.
        v. Pedestrian street crossing shall be provided and clearly delineated through the use of a different pavement color and texture. Pedestrian crosswalks across Lowry Street shall follow TDOT standards.

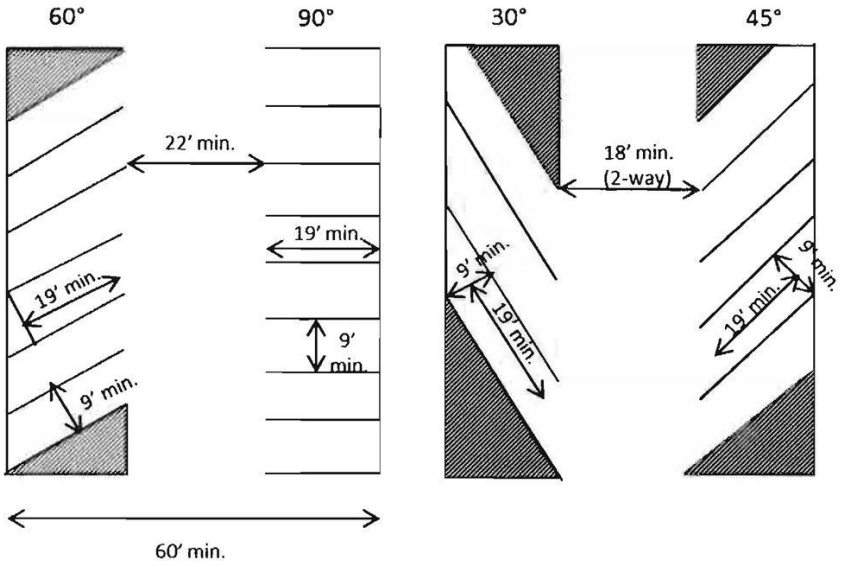
    c. On-Street Parking

        i. On-street parking may be allowed as part of the development review process. An applicant may be credited with one or more legally permitted on-street parking spaces located on a public right-of-way immediately adjacent to the subject lot's street frontage toward the required minimum off-street parking. The location and number of on-street parking spaces shall be identified on the submitted site plan.
        ii. No more than 25 percent of the off-street parking space requirements shall be met through the use of on-street parking.

    d. Efficiency of Parking Areas

        i. In 90 and 60 degree parking configurations, the dimension of two bays of parking and a moving lane shall be 60 feet minimum. Angled parking dimensions of 30 and 45 degrees shall have 12 foot driving lanes for one way movement, and 18 foot driving lanes for two-way movement. However, if driving lanes also serve as designated fire lanes, they must be a minimum of 22 feet in width.

Figure 2: Parking Configuration Diagram



Not to scale

ii. Small lots or lots with shallow front yards, where parking is permitted between the building and the street, may develop one-way angled parking configurations, with curb cuts narrower than the maximums noted above for entry and exit lanes as long as such cuts are not less than 25 feet apart per Section 3.090 of the Municipal Zoning Ordinance.

e. Fit Parking Areas to Site Topography

i. On sloping sites, lines of parking spaces shall run parallel to site contours, with planted medians taking up any excessive slope. Paved parking areas or vehicular space areas shall not exceed a 5% slope.

ii. The detention of runoff within parking areas or in adjacent landscaped areas shall be required. Runoff from parking areas shall not sheet onto public streets or sidewalks.

f. Pedestrian Circulation

i. Public sidewalks shall be constructed along internal and external street frontages.

ii. Sidewalks internal to a lot shall be provided to connect adjacent buildings. Sidewalks shall have a minimum unobstructed pathway of 6 feet and shall be connected to the public sidewalk system along streets.

7. Grading, Drainage, and Topsoil Preservation

    a. Topography

        i. Building, parking and service areas shall be sited in a manner which minimizes disruption of the existing topography. Where there is mature existing vegetation on a site that is designated for preservation, changes in topography and runoff patterns shall be minimized.

        ii. The maximum allowable landscaped slope created by cut or fill shall be 1:3 vertical to horizontal.

        iii. Efforts shall be made to use the existing topography and minimize grading. Grade relationships to adjoining lots shall allow for access points between lots.

    b. Overland Drainage & Detention

        All developments shall comply with the standards in the stormwater management ordinance and shall use best management practices for stormwater.

    c. Topsoil Stabilization

        Topsoil shall not be removed from sites or used in spoil, unless the amount of excess topsoil is not needed for landscaping. Topsoil shall be saved during construction and then placed over landscaped areas at a depth of at least 6".

8. Preservation of Existing Trees and Site Features

    a. Protection of Vegetation Surroundings

        Existing trees identified for preservation shall not be disrupted by grading, construction, or materials storage which may endanger their vitality. Within the drip line of mature trees, the ground elevation shall not be altered, and there shall be no disturbance of the ground surface without the approval of the Town Planning Director and Planning Commission

    b. Retention of Existing Trees

        Tree Identification: Existing trees shall be shown on site plan submitted for approval. Existing trees are divided into two categories:

        i. Isolated trees: All trees having an 18-inch or greater caliper shall be delineated along with caliper size and species. Existing trees over 18 inches shall be marked as “remaining” or “removed” on proposed site plans.

        ii. Forested Areas: General outline of forest stand shall be delineated.

    c. Retention of Existing Historic and Natural Features

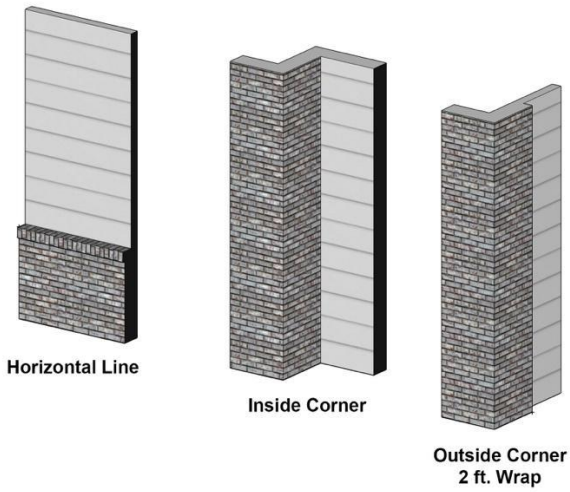
        Streams, wetlands, large rock outcrops, stands of native vegetation, fence rows, rock walls, cemeteries and other notable natural features shall be located on the site plan and preserved wherever possible.

9. Architecture

The standards in this section shall apply to building elements and facades that face or are visible from a street. For the purposes of this section, an alley shall not be considered a street.

a. Building facades shall be oriented parallel to the street frontage.
b. Building facades that face two streets (corner conditions) shall include architectural features, such as openings (doors and/or windows) and attachments (porches, stoops, bay windows, etc.) on both frontages.
c. Principal buildings shall be oriented so that at least one principal pedestrian entrance faces the fronting street. For corner conditions, the primary street shall be considered the fronting street. For corner lots where both streets have the same designation, the entrance shall face the street the building addresses. Required pedestrian entrances shall be defined by a roof overhang or by being recessed.
d. Building facades shall only change primary materials along a horizontal line; at inside corners; or outside corners where they wrap the corner a minimum of 2 feet.

Figure 3: Primary Material Change Diagram



e. With the exception of shopfronts at street level, transoms, and decorative windows, windows shall be square or vertically proportioned and rectangular in shape. Windows shall be generally aligned between floors. Windows shall not be flush-mounted to the exterior of the facade on street-facing elevations.
f. Window shutters, if installed, shall be sized and shaped to match their openings. Shutters shall be operable or have the appearance of operability including shutter hardware.
g. Flat roofs shall include a parapet on all street-facing facades. The primary material for parapets shall match the material of the associated facade.
h. Hipped or gabled roofs on street-facing facades shall be symmetrically pitched.

10. Landscape
    a. Reduce Apparent Size and Visibility of Parking Areas
        i. Between street frontage and parking lots a minimum 8 feet wide landscape area shall be provided. All landscape beds planted adjacent to parking lots shall be a minimum of 8 feet wide to accommodate car overhang. All parking lots shall be screened with one 24" high evergreen shrub per 5 linear feet of parking lot frontage.
        ii. There shall be no more than 15 contiguous parking spaces between landscaped islands.
        iii. Existing trees located in parking areas shall be preserved when feasible. Existing healthy trees that are preserved can be used to meet minimum landscape requirements.
        iv. The minimum area of any parking lot landscaped area is 75 square feet. For every 250 square feet of required landscape area in parking areas, one tree shall be planted. Tree requirement calculations shall be rounded up from decimals of 0.4 or more. These 250 square feet landscaped areas shall be saturated with profuse groundcover and/or shrubs. Grass in and of itself shall not be considered as meeting these landscaping requirements.
        v. All parking area landscape islands shall be planted with a minimum of 1 canopy tree. Canopy trees planted to meet this requirement shall count towards the minimum of one tree per 250 square feet of required landscape area in parking areas.
    b. Landscape Areas
        i. Landscape beds or areas which meet minimum parking area requirements shall be located immediately adjacent to or within the parking area. Areas with natural vegetation shall be preserved along property boundaries, whenever possible.
        ii. Landscape beds provided to meet minimum parking lot requirements must be planted with shrubs or groundcover. Landscape areas provided to meet the remaining overall permeable surface requirements may be planted in grass. The minimum width of any landscape area shall be 5 feet.
        iii. On sites with challenging topography, alternate landscaping configurations shall be considered at the discretion of the Department of Planning and Zoning Staff. Such alternate configurations shall adhere to the goals set forth in these guidelines as best as possible.
    c. Plant Materials
        i. General
        - Plant materials shall be installed at a reasonable size, to provide a sense of presence and to mitigate microclimate impacts caused by development.
        - All landscape zones and plantings installed by the developer shall be in compliance with all planting notes. Size and species identified in the

required planting list shall be as specified on the approved landscaping plan.

- All species and size of species shall be in conformance with the most current edition of the American Standard for Nursery Stock developed by the American Association of Nurserymen, Inc.
- All landscape beds shall have a minimum of 6" of topsoil. If 6" is not present, topsoil shall be brought on site and placed on landscape beds. All landscape beds and planting areas shall be free from construction debris, concrete, rocks, clods, stumps, and weeds.
- All landscape plant material shall be planted to avoid conflict with clear sight triangles at intersections as established by the Town of Smyrna.

ii. Trees

- Canopy trees shall be large enough when installed to have some presence while allowing views to sites and branching above pedestrians walking along the sidewalk. All canopy trees planted in the LSO District shall be a minimum of 2 ½ caliper. All canopy trees planted along Lowry Street shall be a minimum of 3" caliper. All caliper measurements shall be taken according to the American Standard for Nursery Stock specifications.
- Evergreen trees shall be min 6' in height, full and well branched; deciduous ornamental trees shall have a minimum caliper of 1 1/2". No more than 25% of site trees may be comprised of ornamental trees.
- For plantings located within or near power lines, applicants shall refer to Middle Tennessee Electric's list of approved trees: http://www.mtemc.com/pages.cfm/name/bd04_z1_approvedtrees.
- No trees shall be planted within any Town of Smyrna easement for utility mains or services.
- To provide a consistent effect along Smyrna's arterial streets the preferred street tree species shall be Oak.
- To provide a consistent effect along all other collector and local (minor) streets, the preferred canopy tree species shall be Willow Oak, London Plan, and Sawtooth Oak.
- Other street trees that are considered preferable include:
  - *Ulmus parvifolia 'Emerii' or 'Drake'* - Lacebark Elm
  - *Quercus robur 'Fastigiata' or bicolor 'Long'* - Columnar English Oak
  - *Tilia americana 'Pyramidal' or 'Boulevard'* - Columnar American Linden
  - *Ginkgo biloba 'Princeton Sentry'* - Ginkgo
  - *Quercus macrocarpa* - Bur Oak
  - *Zelkova serrata 'Green Vase'* - Japanese Zelkova
- Ornamental street trees that are considered preferable include:
  - *Lagerstoemia indica* - Upright species of Crape Myrtle
  - *Acer buergerianum* – Trident Maple
  - *Capinus betulus 'Fastigiata'* –Pyramidal European Hornbeam

iii. Shrubs

- Upright shrubs shall be at least 24-inches high; spreading and/or ornamental shrubs shall have a minimum spread of 18".
- No shrubs shall be planted within 5 feet of Town of Smyrna utility mains or services.

iv. Grasses

Sod shall be required on 3:1 slopes or greater which are clearly visible from the street or public parking areas. All areas proposed to be covered with grass shall be seeded and strawed or shall be covered with sod at the time of the issuance of the Certificate of Occupancy. It shall be the responsibility of the developer and/or property owner to ensure that grass areas are properly established and maintained.

11. Buffers

a. Purpose

Buffers are intended for use when the impacts of different land uses need to be mitigated through landscape design and transitional features.

b. Performance Criteria

i. Buffers shall provide visual and physical separation between specific and different land uses, and shall be designed to fit within their surroundings, not dominate the view.
ii. Buffers shall be required where commercial or mixed uses adjoin residential areas, where multi-family residential sites adjoin one or two family housing zones, and within Planned Unit Developments with similar adjacencies.
iii. Buffers shall not compromise safety by blocking vision at intersections. They shall not be placed within 75 feet of any street intersection as referenced in Section 3.080 of the Smyrna Zoning Ordinance and shall not be placed so as to obstruct visibility of vehicles entering or leaving driveways.
iv. Buffers are not required between different land uses in the same mixed-use development.
v. Mature natural vegetation shall be retained in such areas and, if necessary, supplemented by new vegetation to screen sight lines. Consideration shall be given on a site by site basis for the removal of existing vegetation.
vi. Buffers shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line, provided they do not block visibility requirements for streets or driveway access.
vii. At the discretion of the Planning Commission, an opaque barrier 6 feet in height may be required to be located within the buffer strip. This shall consist of a fence or wall of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of continuous evergreen plant materials.

c. Minimum Standards

i. Buffers shall consist of a densely planted strip at least 15 feet in width, designed to form an effective buffer in all seasons.

ii. Buffer strips shall consist of 6′ tall evergreen trees planted 15 foot on center with a mature growth height of 10 foot minimum, supplemented with a staggered row of 36″ shrubs 6 foot on center. Shrubs in buffer plantings shall consist of 75% evergreen species and shall grow to a mature height of no less than 6′.

12. Screening

a. Purpose

Screening is intended to conceal specific areas of high visual impact such as, service and loading areas, dumpsters, materials, and utility pads from off-site views. Screening is required in all LSO sub-districts.

b. Minimum Standards

i. Vegetative Materials

- Evergreen plants shall be used for effective year-round screening.
- Evergreen trees shall be a minimum height of 6 foot at time of planting.
- Evergreen shrubs shall be upright with the minimum height necessary to fully screen the intended item, but no less than 24 inches at the time of planting.

ii. Fencing & Walls

- Fencing and walls used shall fully screen all intended items from off-site views and shall be opaque and at least 6′ in height.
- Fencing and walls shall be constructed out of materials that match the materials of the associated building they serve.
- Supplementary evergreen shrubs shall be included along the fence or wall perimeter, planted at a maximum 5 feet on center and at a minimum height of 18 inches.

c. Performance Criteria

i. Screening of common service areas, truck loading zones, auto repair and storage areas from public streets and adjoining property owners shall be required. Screening shall be achieved with vegetation, fencing, or walls, but must be a minimum of 6′ in height.

ii. Garbage collection areas shall be enclosed by opaque materials on all four sides, with doors to remove containers. The materials and colors used for the dumpster enclosure shall match that of the primary structure on the lot except in the case of an existing structure with metal siding; in the case of structures with metal siding, the materials and colors to be used for the dumpster enclosure shall be determined by the Planning Commission. Where dumpsters are enclosed, the screening shall be at least 2 feet taller than the dumpster. Where topography may expose interiors of garbage collection areas to view, screening shall be correspondingly taller.

iii. Electric transformers, utility pads, water meters, gas meters, electric meters, and ground-mounted air conditioning or mechanical units shall be hidden from public view by screening. Screening may be achieved with vegetation, fencing, or walls.
iv. Screening shall not compromise safety by blocking vision at intersections. They shall not be placed within 75 feet of any street intersection as referenced in Section 3.080 of the Smyrna Zoning Ordinance and shall not be placed so as to obstruct visibility of vehicles entering or leaving driveways.
v. Requirements to screen individual utility boxes and pads in hardscape areas such as private drives and building access routes shall be eliminated if determined to be unfeasible by the Planning Commission.
vi. At the discretion of the Planning Commission screening requirements may be relaxed where areas are located so they are not visible from public streets or adjacent properties.
vii. Screens shall not block access to any above ground pad mounted transformer, and shall provide 15 feet of clear access to the transformer doors.
viii. Screens shall not impede or divert the flow of water in any drainage way.

13. Lighting
    a. Design Criteria
        i. To reduce adverse impacts on adjacent sites and minimize energy consumption, lighting shall be carefully located and its intensity shall be the minimum necessary for safety.
        ii. Lighting levels shall be as even as possible.
        iii. Light fixtures, which cast light primarily downward, shall be used.
        iv. LED lighting is preferred.
        v. Decorative pedestrian scale lighting shall be located along all streets to match fixture style of the lighting in the Central Depot District.

    b. Site and Parking Area Lighting
        i. Site or parking area lighting shall not cast light beyond property boundaries. Cutoff devices shall be used to avoid throw onto adjacent sites, and the performance standards cited in the Smyrna Zoning Ordinance as applied to off-site glare shall be followed.
        ii. Lighting levels within commercial sites shall vary according to the land use, fixture height and spacing. A range 0.5 - 1.0 foot candles shall be required for commercial developments and indicated on a photometric plan as part of the Design Review submittal.
        iii. The total height of fixtures shall be in proportion to the building mass with a maximum height of 25 feet.
        iv. Ground-oriented, pedestrian scale lighting shall be considered as an alternate to pole-mounted fixtures along sidewalks.
        v. Lighting fixtures shall be compatible in style with associated buildings.

E. Central Depot District (CDD):

In addition to the requirements of Section D Standards Applicable to All Districts, the following standards shall apply to the CDD sub-district.

1. Purpose and Vision

   The CDD sub-district is the historic and urban core of Smyrna and is distinct from the surrounding development in both form and character. The area is full of rich, historic character that gives a unique feeling to Downtown Smyrna. The purpose of the standards in this section is to enhance the urban core with a mixture of uses and encourage new development and redevelopment that is urban, pedestrian-friendly, and compatible with its historic character.

2. Uses

   While this sub-district encourages a diverse mix of uses, including single family, multi-family, commercial, office, civic uses, parks, and vertically-mixed uses, a rezoning or planned development zoning will be required for uses not permitted by the underlying base zoning. In such instances, residential uses should be located in mixed-use buildings or mixed with commercial or mixed-use development. Where allowed, residential developments should be limited to 12 dwelling units/acre.

3. Site

   a. Minimum Lot Size

      There shall be no minimum lot size in the CDD sub-district.

   b. Site Coverage

      Sites shall not be covered completely with impermeable surfaces. A minimum of 10% of the site shall be devoted to permeable surfaces, with 5% of the sites vehicular use area or parking area being devoted to landscaping.

   c. Building Coverage

      There shall be a maximum building coverage of 90% including accessory buildings on any lot or parcel in the CDD.

4. Placement

   a. Setbacks

      i. Front Yard

         Commercial/Mixed-Use Buildings: 0 ft. min./10 ft. max.

         Residential Buildings: 10 ft. min./20 ft. max.

      ii. Side Yard

         0 ft., 10 ft. min. is required between adjacent buildings

      iii. Rear Yard

10 ft.

iv. On corner lots or lots fronting more than one street, the front yard shall be established on Lowry Street or Front Street if the property in question fronts either of these streets. Contextual front setbacks may be required at the discretion of the Town Planning Director and Planning Commission to ensure compatibility with the existing character of streets desired to be preserved. Contextual front setbacks shall be equal to the average setback of buildings along a single block face with an established development character. An established development character shall be defined as a block face where two-thirds of the buildings have front setbacks within a range of 20 feet of each other.

b. Miscellaneous Standards

i. Commercial/Mixed-Use, Multi-family, and Townhouse building facades shall extend a minimum of 80% along the front yard setback zone.

5. Height

a. Building Height

i. Buildings shall have a maximum height of 3 stories/40 ft.
ii. Mixed-use buildings with residential uses on one or more upper floors may be 4 stories (50' maximum).
iii. First floor ceiling height of Commercial/Mixed-use buildings shall be 12' min.

b. Raised Foundation

Buildings with ground level residential uses shall have a minimum raised foundation of 2 ft.

6. Articulation/Transparency

a. Articulation

Street-facing facades of buildings containing commercial, multi-family, townhouse, or a mixture of uses shall not exceed 20 feet in length without a building articulation intended to minimize the mass of the building. Permitted articulations include:

i. Façade offset with a minimum depth of 4 feet that extends the full height of the façade.
ii. Façade recess or projection with a minimum depth of 4 inches and a minimum width of 1 foot that extends the full height of the first story of the façade.
iii. Variation in building or parapet height of a minimum 2 feet for single story buildings and 4 feet for buildings with two or more stories.
iv. The use of multiple roof forms to create the effect of different building components.
v. Attachments permitted in this sub-district.

b. Attachments

The following attachments are permitted and subject to the standards for Attachments applicable to all sub-districts in Section D.5 Articulation/Transparency.

i. Commercial/Mixed-Use Buildings

Awning, Canopy, Balcony

ii. Residential Buildings

Canopy, Balcony, Stoops, Porches, Bay Windows

c. Transparency

i. Ground Story:

Commercial/Mixed-Use Buildings:

Primary Street Frontage:	50%
Secondary Street Frontage:	20%

Residential Buildings:

Primary Street Frontage:	20%
Secondary Street Frontage:	15%

ii. Upper Story

Commercial/Mixed-Use Buildings:	15%
Residential Buildings:	10%

7. Parking and Access

a. Off-Street Parking

i. On-site, off-street surface parking lots shall be located behind the primary building and in the rear or side yard. Parking permitted in a side yard shall be limited to one double-loaded aisle of parking. Off-street parking shall only be permitted in rear yard for buildings fronting Lowry Street.

ii. Shared parking, public parking garages and the provision of off-site and on street parking are encouraged. The Town Planning Director and Planning Commission may permit the reduction of on-site parking as required in Section 4.010, if these options are available.

iii. Surface parking shall not be the principal use on any parcel.

b. Above Grade Parking Structures

i. Street-facing facades of parking structures shall be clad with materials and articulated in accordance with this article so as to look similar to buildings with other types of uses.

ii. Primary vehicle access shall be located to minimize potential conflicts with pedestrian circulation.
iii. Parking structures located at street level and fronting Lowry or Front Street shall have no less than 80% of the lineal street frontage, exclusive of access drives and pedestrian passages, devoted to retail/service uses at a minimum depth of 20 ft.

c. Shared Parking

i. Shared parking spaces shall be located within 600 linear feet of the primary entrances of all uses served.
ii. Shared parking spaces shall not be separated from the use they serve by an arterial or collector street and safe pedestrian access must be provided from and to the shared parking areas.
iii. Applicants requesting to use shared parking as a means of satisfying the off-street parking requirements shall submit documentation justifying the practicality of shared parking. Documentation shall display how the proposed shared parking arrangement can adequately handle the size of the proposed development, the anticipated parking rate, parking turnover, along with the peak parking and traffic loads.
iv. A shared parking plan shall be enforced through a written agreement among all owners involved.

8. Architecture

a. General

i. Garage doors that face a street shall be limited to 9 feet in width.
ii. Drive-through facilities including associated windows, refuse storage, and menu and ordering boards shall be located to the rear of buildings.

b. Materials

i. Wall Primary Materials

Commercial/Mixed-use Buildings

A minimum of 75% of street-facing façades shall be clad in brick, stone, or cast stone.

Residential Buildings

A minimum of 75% of street-facing façades shall be clad in brick, stone, cast stone; stucco (authentic); wood siding and shingles; or fiber-cement siding and shingles.

ii. Wall Secondary Materials

A maximum of 25% of street-facing facades shall be clad in stucco (authentic); wood siding and shingles; fiber-cement siding and shingles; smooth medium

density overlay (MDO) panels, and pre-finished metal may be used as an accent material.

iii. Foundation Materials

Exposed foundations shall be concrete; decorative concrete block; or clad with brick, stone, or cast stone.

iv. Trim Materials

Trim shall be wood, fiber-cement, or composite. Decorative headers and sills in masonry-clad walls shall be masonry, cast stone, heavy timber, or steel.

v. Other Materials

Any materials not specifically allowed as primary materials, secondary materials, foundation materials, and trim materials are not allowed at no more than 10% of the entire building.

9. Landscape

a. Reduce Apparent Size and Visibility of Parking Areas

To mitigate the heat island effect and visual impact of parking areas, a minimum of 5% of a site's vehicular use area shall be landscaped. This landscaping shall be located immediately adjacent to or within the vehicular use area.

b. Landscape Areas

i. For buildings setback 5 feet or more from the public right-of-way, a minimum 5 feet wide landscape bed shall be provided along the street frontage. This landscape bed shall be planted with a minimum of 1 shrub per 5 linear feet of frontage. A minimum of ½ of these shrubs shall be evergreen.

ii. Landscape shall be reduced at frontage of buildings with front setbacks 5′ or less. No foundation plantings shall be required, but at least 2 planters shall be provided at street level per building.

c. Irrigation

i. All required landscape areas shall be irrigated by an automated irrigation system or an accessible hose bib located within 200 feet of all landscape beds and plant materials.

F. Mixed-Use Development District (MUD):

In addition to the requirements of D. Standards Applicable to All Districts, the following standards shall apply to the MUD sub-district.

1. Purpose and Vision

   The MUD sub-district will serve as integral gateway nodes to the Lowry Street Overlay District and will place an emphasis on providing a mixture of higher density residential, office, and commercial land uses. Internal streets shall create an interconnected system of blocks. This will be an area where high quality design and pedestrian oriented environments will be encouraged through standards that will reinforce and enhance the community character of the Town of Smyrna.

2. Uses

   While this sub-district encourages a diverse mix of uses, such as multi-family, commercial, office, parks, and vertically-mixed uses, a rezoning or planned development zoning will be required for uses not permitted by the underlying base zoning. In such instances, residential-only development should be avoided. Residential uses should be located in mixed-use buildings or mixed with commercial or mixed-use development. Where allowed, residential developments should be limited to 12 dwelling units/acre.

3. Site

   a. Minimum Lot Size

      There shall be no minimum lot size in the MUD sub-district.

   b. Site Coverage

      Sites shall not be covered completely with impermeable surfaces. A minimum of 15% of the site shall be devoted to permeable surfaces, with 10% of the sites vehicular use area or parking area being devoted to landscaping.

   c. Building Coverage

      There shall be a maximum building coverage of 85% including accessory buildings on any lot or parcel in the MUD sub-district.

4. Placement

   a. Setbacks

      i. Front Yard

         Lowry Street: 20 ft. min./80 ft. max.

         All Other Streets (including internal streets):

         Commercial/Mixed-use Buildings: 5 ft. min./20 ft. max.

         Residential Buildings: 10 ft. min./30 ft. max.

      ii. Side Yard

         5 ft. min., 10 ft. min. is required between adjacent buildings

iii. Rear Yard

10 ft.

b. Miscellaneous Standards

i. Commercial/Mixed-Use, Multi-family, and Townhouse building facades shall extend a minimum of 70% along the primary street frontage as defined by the front yard of the developed parcel.

5. Height

a. Building Height

i. Buildings shall have a maximum height of 3 stories/40 ft.
ii. First floor ceiling height of Commercial/Mixed-Use Buildings shall be 12' min.

b. Raised Foundation

Buildings with ground level residential uses shall have a minimum raised foundation of 1.5 ft.

6. Articulation/Transparency

a. Articulation

Street-facing facades of buildings containing commercial, multi-family, townhouse, or a mixture of uses shall not exceed 20 feet in length without a building articulation intended to minimize the mass of the building. Permitted articulations include:

i. Façade offset with a minimum depth of 4 feet that extends the full height of the façade.
ii. Façade recess or projection with a minimum depth of 4 inches and a minimum width of 1 foot that extends the full height of the first story of the façade.
iii. Variation in building or parapet height of a minimum 2 feet for single story buildings and 4 feet for buildings with two or more stories.
iv. The use of multiple roof forms to create the effect of different building components.
v. Attachments permitted in this sub-district.

b. Attachments

The following attachments are permitted and subject to the standards for Attachments applicable to all sub-districts in Section D.5 Articulation/Transparency.

i. Commercial/Mixed-Use Buildings

Awning, Canopy, Balcony

ii. Residential Buildings

Canopy, Balcony, Stoops, Porches, Bay Windows

c. Transparency

i. Ground Story:

Commercial/Mixed-Use Buildings:

Primary Street Frontage:	50%
Secondary Street Frontage:	20%

Residential Buildings:

Primary Street Frontage:	20%
Secondary Street Frontage:	15%

ii. Upper Story

Commercial/Mixed-Use Buildings:	15%
Residential Buildings:	10%

7. Parking and Access

a. Off-Street Parking

i. For buildings with frontage on Lowry Street, off-street surface parking lots may be located in the front, side or rear yard. Off-street parking located in the front or side yard shall be limited to one, double-loaded bay of parking. For buildings with frontage on other streets, including internal streets, off-street parking shall be located to the rear or side yard. Parking located in the side yard shall be limited to one, double-loaded bay of parking.

ii. In the MUD District, shared parking, public parking garages, on-street parking and the provision of off-site parking are encouraged. The Town Planning Director and Planning Commission may permit the reduction of on-site parking as required in Section 4.010, if these options are available.

iii. Surface parking shall not be the principal use on any parcel.

b. Above Grade Parking Structures

i. Street-facing facades of parking structures shall be clad with materials and articulated in accordance with this article so as to look similar to buildings with other types of uses.

ii. Primary vehicle access shall be located to minimize potential conflicts with pedestrian circulation.

iii. Parking structures located at street level and fronting Lowry or Front Street shall have no less than 80% of the lineal street frontage, exclusive of access drives and pedestrian passages, devoted to retail/service uses at a minimum depth of 20 ft.

c. Shared Parking

i. Shared parking spaces shall be located within 600 linear feet of the primary entrances of all uses served.

ii. Shared parking spaces shall not be separated from the use they serve by an arterial or collector street and safe pedestrian access must be provided from and to the shared parking areas.
iii. Applicants requesting to use shared parking as a means of satisfying the off-street parking requirements shall submit documentation justifying the practicality of shared parking. Documentation shall display how the proposed shared parking arrangement can adequately handle the size of the proposed development, the anticipated parking rate, parking turnover, along with the peak parking and traffic loads.
iv. A shared parking plan shall be enforced through a written agreement among all owners involved.

8. Architecture

a. General

i. Drive-through facilities including associated windows, refuse storage, and menu and ordering boards shall be located to the rear or side of buildings. Drive-through facilities on the side of a building facing Lowry Street shall be recessed a minimum of 2 feet from the front facade.

b. Materials

i. Wall Primary Materials

Commercial/Mixed-use Buildings

A minimum of 75% of street-facing façades shall be clad in brick, stone, or cast stone.

Residential Buildings

A minimum of 75% of street-facing façades shall be clad in brick, stone, cast stone; stucco (authentic); wood siding and shingles; or fiber-cement siding and shingles.

ii. Wall Secondary Materials

A maximum of 25% of street-facing facades shall be clad in stucco (authentic); wood siding and shingles; fiber-cement siding and shingles; smooth medium density overlay (MDO) panels, and pre-finished metal may be used as an accent material.

iii. Foundation Materials

Exposed foundations shall be concrete; decorative concrete block; or clad with brick, stone, or cast stone.

iv. Trim Materials

Trim shall be wood, fiber-cement, or composite. Decorative headers and sills in masonry-clad walls shall be masonry, cast stone, heavy timber, or steel.

v. Other Materials

Any materials not specifically allowed as primary materials, secondary materials, foundation materials, and trim materials are allowed at no more than 10% of the entire building.

9. Landscape

a. Reduce Apparent Size and Visibility of Parking Areas

To mitigate the heat island effect and visual impact of parking areas, a minimum of 10% of a site's vehicular use area shall be landscaped. This landscaping shall be located immediately adjacent to or within the vehicular use area.

b. Landscape Areas

i. Commercial, office, multi-family and mixed-use buildings shall have 5 feet wide landscape beds adjacent to buildings where the building faces the public street or a primary access drive. Foundation plantings shall be provided in these beds with a minimum 1 shrub per 5 linear feet of frontage. A minimum of 1/2 of these shrubs shall be evergreen.

ii. Planting beds shall be consolidated into areas large enough to give a natural character to a site, rather than distributed in thin ribbons. The minimum area of a landscape bed or zone shall be 75 feet. These beds or zones shall be clearly delineated on site plan with square footage.

iii. Landscape beds between parking and public streets shall contain a continuous hedge row composed of evergreen shrubs with a minimum planting height of 24 inches and a maximum spacing of 5 feet on center.

iv. All site perimeters not facing the public streets or containing off-street parking areas shall maintain a minimum 5 foot wide landscape bed. This landscape bed shall be planted with one canopy or understory trees per 50 linear feet of frontage. No more than 1/3 of these trees shall be understory.

v. If screening landscape is required along lot perimeter, screening requirements shall replace perimeter landscape requirements.

c. Front Yard Planting Zones

i. Landscaped areas shall dominate the frontage of any site, where entries are the only interruptions.

ii. All site boundaries fronting onto streets and primary access drives shall have a front yard landscape zone, with a minimum width of 5 feet. A mixture of shrubs and trees shall be planted in this zone.

iii. In the front yard planting zone, one canopy tree per 50 linear feet shall be planted with relatively even spacing. Tree requirement calculations shall be rounded up from decimals of 0.4 or more. In addition, shrubs shall be planted at one shrub per 5 linear feet of frontage within the front yard planting zone. Shrubs planted to screen parking areas shall count towards front yard planting zone requirements.

iv. All canopy trees planted along public streets shall be columnar and compact in canopy spread, as well as pruned to provide a minimum 8 feet of clearance over pedestrian ways and 14' of clearance over vehicular routes.
v. Additional requirements are required for planting along Lowry Street frontage. Accent shrubs a minimum of 18 inches tall with a maximum spacing of 4 feet on center, and understory ornamental trees a minimum of 1.5 inch caliper shall be planted at a minimum of 1 per 50 linear feet in front yard landscape beds.
vi. If 8' or more of landscape area is provided between curb and gutter in the Lowry Street right-of-way, the Town Planning Director and/or Planning Commission may require canopy or understory trees to be planted in the Lowry Street right-of-way instead of the front yard planting zone. In this case a compact species of tree will be selected that can easily be maintained without creating pedestrian or vehicular conflict. Understory ornamental trees may be planted in groupings or staggered in visually pleasing locations relative to the required canopy tree plantings.
vii. Tree and shrub calculations for front yard planting zones shall not be applied to frontage that is dedicated to access drive area.

G. Mixed-Use Corridor District (MUC):

In addition to the requirements of Section D Standards Applicable to All Districts, the following standards shall apply to the MUC sub-district.

1. Purpose and Vision

The MUC sub-district will function as a transition between the higher density nodes of development in the CDD and MUD sub-districts. This area will also be mixed-use, but will emphasize low to medium intensity commercial and will have a more suburban feel.

2. Uses

While this sub-district encourages a diverse mix of uses, such as multi-family, commercial, office, parks, and vertically-mixed uses, a rezoning or planned development zoning will be required for uses not permitted by the underlying base zoning. In such instances, residential-only developments should be limited to 12 dwelling units/acre.

3. Site

a. Minimum Lot Size

Minimum lot size in the MUC district shall be 20,000 square feet.

b. Site Coverage

Sites shall not be covered completely with impermeable surfaces. A minimum of 20% of the site shall be devoted to permeable surfaces, with 12% of the sites vehicular use area or parking area being devoted to landscaping.

c. Building Coverage

There shall be a maximum building coverage of 70 percent including accessory buildings on any lot or parcel in the MUC.

4. Placement
    a. Setbacks
        i. Front Yard

            Lowry Street: 40 ft. min./80 ft. max.

            All Other Streets: 10 ft. min.

        ii. Side Yard

            10 ft.

        iii. Rear Yard

            20 ft.

5. Height
    a. Building Height
        i. Buildings shall have a maximum height of 3 stories/40 ft.
        ii. First floor ceiling height of Commercial/Mixed-Use Buildings shall be 12’ min.

6. Articulation/Transparency
    a. Articulation

        Street-facing facades of buildings containing commercial, multi-family, townhouse, or a mixture of uses shall not exceed 40 ft. in length without a building articulation intended to minimize the mass of the building. Permitted articulations include:

        i. Façade offset with a minimum depth of 4 feet that extends the full height of the façade.
        ii. Façade recess or projection with a minimum depth of 4 inches and a minimum width of 1 foot that extends the full height of the first story of the façade.
        iii. Variation in building or parapet height of a minimum 2 feet for single story buildings and 4 feet for buildings with two or more stories.
        iv. The use of multiple roof forms to create the effect of different building components.
        v. Attachments permitted in this sub-district.

    b. Attachments

        The following attachments are permitted and subject to the standards for Attachments applicable to all sub-districts in Section D.5 Articulation/Transparency.

        i. Commercial/Mixed-Use Buildings

Awning, Canopy, Balcony

ii. Residential Buildings

Canopy, Balcony, Stoops, Porches, Bay Windows

c. Transparency

i. Ground Story:

Commercial/Mixed-Use Buildings:

Primary Street Frontage:	40%
Secondary Street Frontage:	10%

Residential Buildings:

Primary Street Frontage:	15%
Secondary Street Frontage:	10%

ii. Upper Story

Commercial/Mixed-Use Buildings:	15%
Residential Buildings:	10%

7. Parking and Access

a. Off-Street Parking

i. On-site, off-street surface parking lots shall be located in the front, side or rear yard. Off-street parking located in the front yard for buildings fronting public streets shall be limited to 60 feet in width (typically one aisle with two single-loaded bays).
ii. In the MUC District, shared parking and off-site parking is encouraged. The Town Planning Director and Planning Commission may permit the reduction of on-site parking as required in Section 4.010, if these options are available.
iii. Surface parking shall not be the principal use on any parcel.

b. Shared Parking

i. Shared parking spaces shall be located within 600 linear feet of the primary entrances of all uses served.
ii. Shared parking spaces shall not be separated from the use they serve by an arterial or collector street and safe pedestrian access must be provided from and to the shared parking areas.
iii. Applicants requesting to use shared parking as a means of satisfying the off-street parking requirements shall submit documentation justifying the practicality of shared parking. Documentation shall display how the proposed shared parking arrangement can adequately handle the size of the proposed development, the anticipated parking rate, parking turnover, along with the peak parking and traffic loads.

iv. A shared parking plan shall be enforced through a written agreement among all owners involved.

8. Architecture
    a. General
        i. Drive-through facilities including associated windows, refuse storage, and menu and ordering boards shall be located to the rear or side of buildings. Drive-through facilities on the side of a building facing Lowry Street shall be recessed a minimum of 2 feet from the front facade.
    b. Materials
        i. Wall Primary Materials

            Commercial/Mixed-use Buildings

                A minimum of 75% of façades facing Lowry Street shall be clad in brick, stone, or cast stone.

            Residential Buildings

                A minimum of 75% of façades facing Lowry Street shall be clad in brick, stone, cast stone; stucco (authentic); wood siding and shingles; or fiber-cement siding and shingles.

        ii. Wall Secondary Materials

            A maximum of 25% of facades facing Lowry Street shall be clad in stucco (authentic); wood siding and shingles; fiber-cement siding and shingles; smooth medium density overlay (MDO) panels, and pre-finished metal may be used as an accent material.

        iii. Foundation Materials

            Exposed foundations shall be concrete; decorative concrete block; or clad with brick, stone, or cast stone.

        iv. Trim Materials

            Trim shall be wood, fiber-cement, or composite. Decorative headers and sills in masonry-clad walls shall be masonry, cast stone, heavy timber, or steel.

        v. Other Materials

            Any materials not specifically allowed as primary materials, secondary materials, foundation materials, and trim materials are allowed at no more than 10% of the entire building.

9. Landscape
    a. Reduce Apparent Size and Visibility of Parking Areas

To mitigate the heat island effect and visual impact of parking areas, a minimum of 12% of a site's vehicular use area shall be landscaped. This landscaping shall be located immediately adjacent to or within the vehicular use area.

b. Landscape Areas

i. Commercial, office, multi-family and mixed-use buildings shall have 5 feet wide landscape beds adjacent to buildings where the building faces the public streets and primary access drives. Foundation plantings shall be provided in these beds with a minimum 1 shrub per 5 linear feet of frontage. A minimum of ½ of these shrubs shall be evergreen.
ii. Planting beds shall be consolidated into areas large enough to give a natural character to a site, rather than distributed in thin ribbons. The minimum area of a landscape bed or zone shall be 75 feet. These beds or zones shall be clearly delineated on site plan with square footage.
iii. Landscape beds between parking and public streets shall contain a continuous hedge row composed of a double staggered row of evergreen shrubs with a minimum planting height of 24 inches and a maximum spacing of 5 feet on center.
iv. All site perimeters not facing the public streets or containing off-street parking areas shall maintain a minimum 5 feet wide landscape bed. This landscape bed shall be planted with one canopy or understory trees per 50 linear feet of frontage. No more than 1/3 of these trees shall be understory.
v. If screening landscape is required along lot perimeter, screening requirements shall replace perimeter landscape requirements.

c. Front Yard Planting Zones

i. Landscaped areas shall dominate the frontage of any site, where entries are the only interruptions.
ii. All site boundaries fronting onto streets and primary access drives shall have a landscape zone, with a minimum width of 5 feet. A mixture of shrubs and trees shall be planted in this zone.
iii. In the front yard planting zones, one canopy tree per 50 linear feet shall be planted with relatively even spacing. Tree requirement calculations shall be rounded up from decimals of 0.4 or more. In addition shrubs shall be planted at one shrub per 5 linear feet of frontage within the front yard planting zone. Shrubs planted to screen parking areas shall count towards front yard planting zone requirements.
iv. All canopy trees planted along public trees shall be columnar and compact in canopy spread, as well as pruned to provide minimum of 8 feet of clearance over pedestrian ways and 14’ of clearance over vehicular routes at the time the tree matures and its canopy spreads over street or sidewalk areas.
v. Additional requirements are required for planting along Lowry Street frontage. Accent shrubs a minimum of 18 inches tall with a maximum spacing of 4 feet on

center, and understory ornamental trees a minimum of 1.5 inch caliper shall be planted at a minimum of 1 per 50 linear feet in front yard landscape beds.

vi. If 8' or more of landscape area is provided between curb and gutter in the Lowry Street right-of-way, the Town Planning Director and/or Planning Commission may require canopy or understory trees to be planted in the Lowry Street right-of-way instead of the front yard planting zone. In this case a compact species of tree will be selected that can easily be maintained without creating pedestrian or vehicular conflict. Understory ornamental trees may be planted in groupings or staggered in visually pleasing locations relative to the required canopy tree plantings.

vii. Tree and shrub calculations for front yard planting zones shall not be applied to frontage that is dedicated to access drive area.

H. Railroad Frontage District (RFD):

In addition to the requirements of Section D. Standards Applicable to All Districts, the following standards shall apply to the RFD sub-district.

1. Purpose and Vision

The RFD runs the length of the corridor between Lowry Street and the existing railroad. The lack of depth and impacts from the railroad limit the uses feasible for lots in this district. The RFD District will be mixed-use, with an emphasis on low intensity commercial. Buildings will have shallow setbacks from Lowry Street with parking located primarily to the side of buildings. Development and redevelopment must have an efficient site layout to promote the highest and best use for the constrained lots in this district.

2. Uses

While this sub-district encourages a diverse mix of uses, such as multi-family, commercial, office, parks, and vertically-mixed uses, a rezoning or planned development zoning will be required for uses not permitted by the underlying base zoning. In such instances, residential-only developments should be limited to 12 dwelling units/acre.

3. Site

a. Minimum Lot Size

There shall be no minimum lot size in the RFD District.

b. Site Coverage

Sites shall not be covered completely with impermeable surfaces. A minimum of 10% of the site shall be devoted to permeable surfaces, with 5% of the sites vehicular use area or parking area being devoted to landscaping.

c. Building Coverage

There shall be a maximum building coverage of 60 percent including accessory buildings on any lot or parcel in the RFD District.

4. Placement
    a. Setbacks
        i. Front Yard

            Commercial/Mixed-use Buildings: 5 ft. min.

            Residential Buildings: 10 ft. min.

        ii. Side Yard

            5 ft.

        iii. Rear Yard

            5 ft.

5. Height
    a. Building Height
        i. Buildings shall have a maximum height of 2 stories/30 ft.
        ii. Buildings with parking at ground level may have a maximum height of 3 stories/40 ft. Parking at ground level shall be completely screened by a building façade.
        iii. First floor ceiling height of Commercial/Mixed-Use buildings shall be 12’ min.
    b. Raised Foundation

        Buildings with ground level residential uses shall have a minimum raised foundation of 2 ft.

6. Articulation/Transparency
    a. Articulation

        Street-facing facades of buildings containing commercial, multi-family, townhouse, or a mixture of uses shall not exceed 40 ft. in length without a building articulation intended to minimize the mass of the building. Permitted articulations include:

        i. Façade offset with a minimum depth of 2 feet that extends the full height of the façade.
        ii. Façade recess or projection with a minimum depth of 4 inches and a minimum width of 1 foot that extends the full height of the first story of the façade.
        iii. Variation in building or parapet height of a minimum two feet for single story buildings and four feet for buildings with two or more stories.
        iv. The use of multiple roof forms to create the effect of different building components.
        v. Attachments permitted in this sub-district.

    b. Attachments

The following attachments are permitted and subject to the standards for Attachments applicable to all sub-districts in Section D.5 Articulation/Transparency.

i. Commercial/Mixed-Use Buildings

Awning, Canopy, Balcony

ii. Residential Buildings

Canopy, Balcony, Stoops, Porches, Bay Windows

c. Transparency

i. Ground Story:

Commercial/Mixed-Use Buildings: 40%

Residential Buildings: 20%

ii. Upper Story

15%

7. Parking and Access

a. Off-Street Parking

i. On-site, off-street surface parking lots shall be located in side or rear yards. Parking in the front yard shall only be allowed at the discretion of the Town Planning Director and Planning Commission.

8. Architecture

a. General

i. Drive-through facilities including associated windows, refuse storage, and menu and ordering boards shall be located to the rear or side of buildings. Drive-through facilities on the side of buildings facing Lowry Street shall be recessed a minimum of 2 feet from the front facade.

b. Materials

i. Wall Primary Materials

Commercial/Mixed-use Buildings

A minimum of 75% of façades facing Lowry Street shall be clad in brick, stone, or cast stone.

Residential Buildings

A minimum of 75% of façades facing Lowry Street shall be clad in brick, stone, cast stone; stucco (authentic); wood siding and shingles; or fiber-cement siding and shingles.

ii. Wall Secondary Materials

A maximum of 25% of facades facing Lowry Street shall be clad in stucco (authentic); wood siding and shingles; fiber-cement siding and shingles; smooth medium density overlay (MDO) panels and pre-finished metal may be used as an accent material.

iii. Foundation Materials

Exposed foundations shall be concrete; decorative concrete block; or clad with brick, stone, or cast stone.

iv. Trim Materials

Trim shall be wood, fiber-cement, or composite. Decorative headers and sills in masonry-clad walls shall be masonry, cast stone, heavy timber, or steel.

v. Other Materials

Any materials not specifically allowed as primary materials, secondary materials, foundation materials, and trim materials are allowed at no more than 10% of the entire building.

9. Landscape

a. Reduce Apparent Size and Visibility of Parking Areas

To mitigate the heat island effect and visual impact of parking areas, a minimum of 5% of a site's vehicular use area shall be landscaped. This landscaping shall be located immediately adjacent to or within the vehicular use area.

b. Landscape Areas

i. Commercial, office, multi-family and mixed-use buildings shall have 5 feet wide landscape beds adjacent to buildings where the building faces the public streets and primary access drives. Foundation plantings shall be provided in these beds with a minimum 1 shrub per 5 linear feet of frontage. A minimum of 1/3 of these shrubs shall be evergreen.

ii. Planting beds shall be consolidated into areas large enough to give a natural character to a site, rather than distributed in thin ribbons. The minimum area of a landscape bed or zone shall be 75 feet. These beds or zones shall be clearly delineated on site plan with square footage.

iii. Landscape beds between parking and public streets shall contain a continuous hedge row composed of a double staggered row of evergreen shrubs with a minimum planting height of 24 inches and a maximum spacing of 5 feet on center.

iv. All site perimeters not facing the public streets or containing off-street parking areas shall maintain a minimum 5 feet wide landscape bed. This landscape bed shall be planted with one canopy or understory trees per 50 linear feet of frontage. No more than 1/3 of these trees shall be understory.

v. If screening landscape is required along lot perimeter, screening requirements shall replace perimeter landscape requirements.

c. Front Yard Planting Zones

i. Landscaped areas shall dominate the frontage of any site, where entries are the only interruptions.
ii. All site boundaries fronting onto streets and primary access drives shall have a landscape zone with a minimum width of 5 feet. A mixture of shrubs and trees shall be planted in this zone.
iii. In the front yard planting zones, one canopy tree per 50 linear feet shall be planted with relatively even spacing. Tree requirement calculations shall be rounded up from decimals of 0.4 or more. In addition shrubs shall be planted at one shrub per 5 linear feet of frontage within the front yard planting zone. Shrubs planted to screen parking areas shall count towards front yard planting zone requirements.
iv. All canopy trees planted along public trees shall be columnar and compact in canopy spread, as well as pruned to provide minimum of 8 feet of clearance over pedestrian ways and 14′ of clearance over vehicular routes at the time the tree matures and its canopy spreads over street or sidewalk areas.
v. Additional requirements are required for planting along Lowry Street frontage. Accent shrubs a minimum of 18 inches tall with a maximum spacing of 4 feet on center, and understory ornamental trees a minimum of 1.5 inch caliper shall be planted at a minimum of 1 per 50 linear feet in front yard landscape beds.
vi. If 8′ or more of landscape area is provided between curb and gutter in the Lowry Street right-of-way, the Town Planning Director and/or Planning Commission may require canopy or understory trees to be planted in the Lowry Street right-of-way instead of the front yard planting zone. In this case a compact species of tree will be selected that can easily be maintained without creating pedestrian or vehicular conflict. Understory ornamental trees may be planted in groupings or staggered in visually pleasing locations relative to the required canopy tree plantings.
vii. Tree and shrub calculations for front yard planting zones shall not be applied to frontage that is dedicated to access drive area.

I. Definitions:

Articulation: Changes in the surface of a building façade that minimize the mass of the building and creates visual interest.

Attachment: Elements attached to a building façade that serve a function and create visual interest (see: Awning, Balcony, Bay Window, Canopy, Porch, Stoop)

Awning: A façade attachment that consists of a material secured to a frame and used to protect an opening from the weather.

Balcony: A façade attachment that consists of a platform enclosed by a wall or railing and accessed from an upper level opening.

Bay Window: A façade attachment that consists of a window or group of windows that is part of an interior space and projects from the building façade.

Canopy: A façade attachment that is an overhead structure supported by the building façade and used to accentuate or protect a building entrance from the weather.

Decorative Window: A type of window opening with a unique shape or glazing that is secondary to the standard window openings within a building facade.

Porch: A façade attachment that consists of a covered platform supported by columns and typically located on the ground floor of a structure.

Shopfront: A type of opening that consists primarily of glazing and is associated with commercial uses at street level.

Stoop: A façade attachment that consists of a covered platform supported by columns or the building façade and used to protect a building entrance from the weather.

Stucco (authentic): An exterior finish for building facades that is typically made from a combination of cement, sand, hydrated lime, and water and applied when wet.

Transparency: The glazing in a window or door opening.

5.059 ESO, Enon Springs Gateway Overlay District.

A. District Description:

Enon Springs Road is a gateway into the heart of the Town of Smyrna. The Town wishes to establish a framework for site planning and design to ensure development of a high quality. These regulations set standards for all commercial, residential, institutional, industrial, and office development. It is the intent of these regulations to establish standards that will be reflective and protective of the community amenities in the area and to enhance the quality of life for the citizens of Smyrna and Rutherford County. It is the intent of the Enon Springs Gateway Overlay District regulations to protect and enhance the character of the land throughout the district.

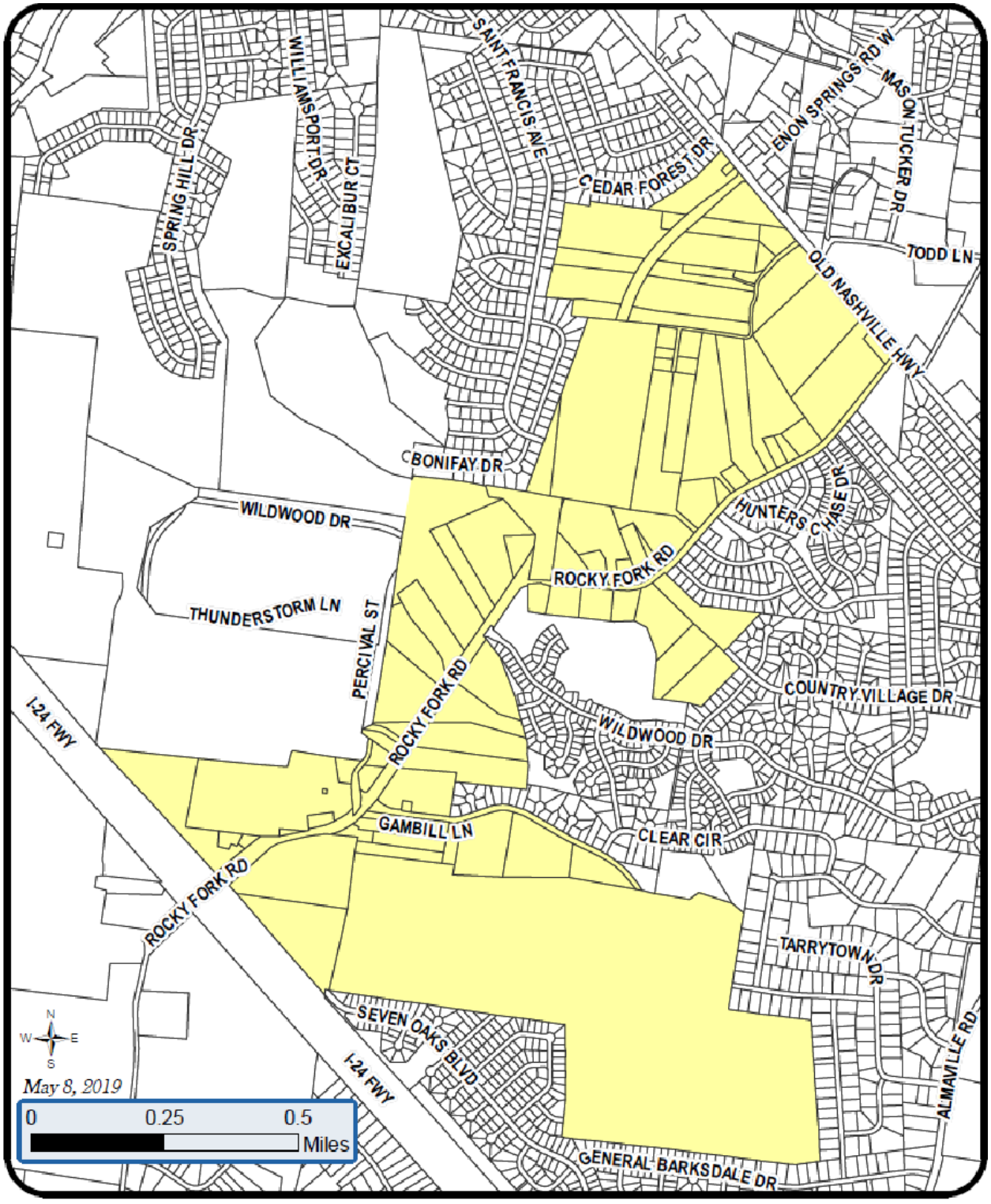
The purposes of the Enon Springs Gateway Overlay District regulations shall include the following:

1. Encourage high quality development as a strategy for investing the Town's future;
2. Emphasize the proposed interstate access as a major entryway into the Town;
3. Maintain and enhance the quality of life for Smyrna's citizens;
4. Shape the District's appearance, aesthetic quality, and spatial form;
5. Reinforce the civic pride of citizens through appropriate development;
6. Increase awareness of aesthetic, social, and economic values;
7. Protect and enhance property values;
8. Minimize negative impacts of development on the natural environment;
9. Provide property owners, developers, architects, engineers, builders, business owners and others with a clear and equitable set of regulations for developing land;
10. Enhance the Town's sense of place and contribute to the sustainability and lasting value of the Town; and
11. Shape and develop the District in a manner that is beneficial to the district and the entire Town.

B. Overlay District Map:

The Enon Springs Gateway Overlay District applies to property generally located along Enon Springs Road, as shown in Figure 1: Overlay District Map. This information is provided for reference purposes only, and in case of conflict between the map in this Subsection and the Official Zoning Map, the Official Zoning Map shall control.

Figure 1: Overlay District Map



C. Use of Enon Springs Gateway Overlay District

1. General Provisions

In addition to all other applicable provisions of this ordinance, the Enon Springs Gateway Overlay District establishes additional regulations for the district.

2. Transitional Provisions

a. New Development

Except as provided elsewhere in this section, upon the effective date of the Enon Springs Gateway Overlay District or any subsequent amendment, any new building, site plan development, or other new structure must be constructed or developed in accordance with all applicable provisions of the Enon Springs Gateway Overlay District. No excavation or filling of land or construction of any public or private improvements may take place or commence except in conformity with the Enon Springs Gateway Overlay District.

b. Additions

Except as provided elsewhere in this section, upon the effective date of the Enon Springs Gateway Overlay District or any subsequent amendment, any addition to an existing building, buildings or site improvements must be constructed or developed in accordance with all applicable provisions of the Enon Springs Gateway Overlay District if any of the following criteria are met:

i. The addition or site improvement fronts a public right-of-way; or

ii. The gross footprint of the addition exceeds 25% of the gross floor area of the existing building or structure being modified.

iii. An addition of ten (10) or more parking spaces to the site, landscape and lighting criteria to be met.

Only additions or improvements that meet the above criteria are required to comply with the provisions of the Enon Springs Gateway Overlay District. Additions shall not force compliance of the whole building or entire site. Alterations to the existing building shall be considered Modifications and are subject to Section C.2.c.

c. Modifications

Except as provided elsewhere in this section, upon the effective date of the Enon Springs Gateway Overlay District or any subsequent amendment, any modification to an existing element of a building or buildings must comply with the provisions of the Enon Springs Gateway Overlay District if all of the following criteria are met:

i. The building element is regulated by this Article; and

ii. The proposed modification fronts a public right-of-way.

Only modifications that meet the above criteria are required to comply with the provisions of the Enon Springs Gateway Overlay District. Modifications shall not force compliance of the whole building.

d. Repair and Maintenance

Routine repairs and maintenance of an existing building or site are permitted and are not required to comply with the provisions of the Enon Springs Gateway Overlay District. If elements have deteriorated beyond the point where they can be retained, they shall be replaced in kind. Elements that are not replaced in kind shall be considered Modifications and are subject to Section C.2.c.

e. Previously Issued Permits and Pending Applications

Previously issued permits and pending applications will be processed in accordance with and decided pursuant to the law existing on the date the application was filed.

3. Conflicting Provisions

In the event that there is a conflict between the provisions of this ordinance and those of the base district or the Design Review Manual, the provisions of this ordinance shall take precedence.

4. Administrative Procedures

Development within the Enon Springs Gateway Overlay District shall follow the design review procedures in Article VIII, Section 8.060 Design Review Applications and Processing.

5. Deviations from Standards

a. Deviations from the design standards of this section may only be granted by the Planning Commission as part of the design review process, when such deviations will enhance the appearance and design of development subject to review.
b. A request for deviations shall be submitted by the applicant in writing at the time of the initial filing of the application. The request shall state the deviation(s) requested; the grounds for the request; and the facts upon which the applicant is relying.
c. The Planning Commission may approve the request if it determines the deviation(s) will not be detrimental to the health, safety, and welfare of the public; the grounds for the request are unique to the project; the deviations are necessary to achieve the design intent of the project; and the deviations are not contrary to the design intent of the Enon Springs Gateway Overlay District.
d. The Planning Commission may impose reasonable conditions or restrictions in granting deviation requests to protect the health, safety, and welfare of the public and meet the purposes of this ordinance.

D. Development Standards:

1. Uses

   RESERVED

2. Site

   a. Streets and Blocks

      The development or redevelopment of large parcels shall be designed in a manner to create a network of streets and blocks that are connected to the existing street network including sidewalks. Streets, whether public or private, shall be designed to accommodate multiple modes of transportation including vehicles, pedestrians, and bicyclists. Streetscape design shall be accordance with the context of adjacent development.

3. Parking and Access

   a. Number of Spaces Required

      The amount of off-street parking required shall be in accordance with Article IV, Section 4.010 except as provided elsewhere in this Article.

   b. Access

      i. Access to parking areas shall be from the side or rear of lots when possible.
      ii. Entries to sites from public streets shall be clear, controlled and safe.
      iii. Combined or shared entries between properties shall be required on Enon Springs Road and collector streets within the Enon Springs Gateway Overlay District. No more than one curb cut shall occur per 100 feet of frontage.
      iv. Curb cuts shall be limited to 30 feet and driveway radii shall be kept to a minimum to facilitate pedestrian traffic.
      v. Pedestrian street crossings shall be provided and clearly delineated through the use of a different pavement color and texture. Pedestrian crosswalks shall follow TDOT standards.

   c. Fit Parking Areas to Site Topography

      i. On sloping sites, lines of parking spaces shall run parallel to site contours, with planted medians taking up any excessive slope. Paved parking areas or vehicular space areas shall not exceed a 5% slope.

      ii. The detention of runoff within parking areas or in adjacent landscaped areas shall be required. Runoff from parking areas shall not sheet onto public streets or sidewalks.

   d. Pedestrian Circulation

      i. Public sidewalks shall be constructed along internal and external street frontages.

ii. Sidewalks internal to a lot shall be provided to connect adjacent buildings. Sidewalks shall have a minimum unobstructed pathway of 6 feet and shall be connected to the public sidewalk system along streets.

4. Grading, Drainage, and Topsoil Preservation

   a. Topography

      i. Building, parking and service areas shall be sited in a manner which minimizes disruption of the existing topography. Where there is mature existing vegetation on a site that is designated for preservation, changes in topography and runoff patterns shall be minimized.

      ii. The maximum allowable landscaped slope created by cut or fill shall be 1:3 vertical to horizontal.

      iii. Efforts shall be made to use the existing topography and minimize grading. Grade relationships to adjoining lots shall allow for access points between lots.

   b. Overland Drainage & Detention

      All developments shall comply with the standards in the stormwater management ordinance and shall use best management practices for stormwater.

   c. Topsoil Stabilization

      Topsoil shall not be removed from sites or used in spoil, unless the amount of excess topsoil is not needed for landscaping. Topsoil shall be saved during construction and then placed over landscaped areas at a depth of at least 6".

   d. Pervious Surface Areas

      A minimum of 20% of the site area shall be pervious upon completion of the development. Above ground detention facilities and landscape areas shall count toward this requirement.

5. Preservation of Existing Trees and Site Features

   a. Protection of Vegetation Surroundings

      Existing trees identified for preservation shall not be disrupted by grading, construction, or materials storage which may endanger their vitality. Within the drip line of mature trees, the ground elevation shall not be altered, and there shall be no disturbance of the ground surface without the approval of the Town Planning Director and Planning Commission.

   b. Retention of Existing Trees

      Tree Identification: Existing trees shall be shown on site plan submitted for approval. Existing trees are divided into two categories:

      i. Isolated trees: All trees having an 18-inch or greater caliper shall be delineated along with caliper size and species. Existing trees over 18 inches shall be marked as “remaining” or “removed” on proposed site plans.

      ii. Forested Areas: General outline of forest stand shall be delineated.

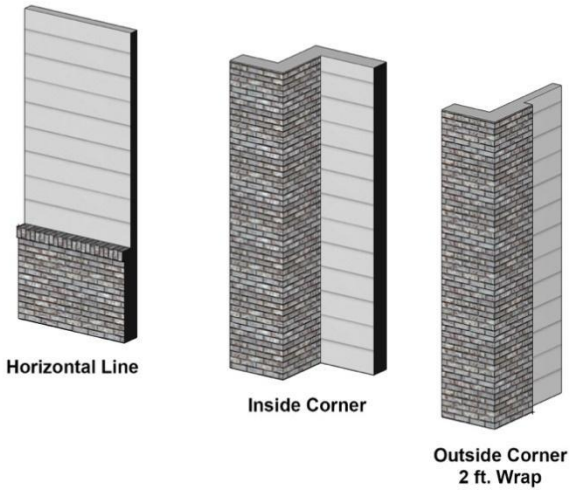
c. Retention of Existing Historic and Natural Features

Streams, wetlands, large rock outcrops, stands of native vegetation, fence rows, rock walls, cemeteries and other notable natural features shall be located on the site plan and preserved wherever possible.

6. Architecture

a. Building facades shall be oriented parallel to the street frontage.
b. Principal buildings shall be oriented so that at least one principal pedestrian entrance faces the fronting street. For corner conditions, the primary street shall be considered the fronting street. For corner lots where both streets have the same designation, the entrance shall face the street the building addresses.
c. Building facades shall only change primary materials along a horizontal line; at inside corners; or outside corners where they wrap the corner a minimum of 2 feet.

Figure 2: Primary Material Change Diagram



d. With the exception of shopfronts at street level, transoms, and decorative windows, windows shall be square or vertically proportioned and rectangular in shape. Windows shall be generally aligned between floors.
e. Window shutters, if installed, shall be sized and shaped to match their openings. Shutters shall be operable or have the appearance of operability including shutter hardware.
f. Flat roofs shall include a parapet on all street-facing facades. The primary material for parapets shall match the material of the associated facade.
g. Hipped or gabled roofs on street-facing facades shall be symmetrically pitched.
h. Building Scale
   i. Provide appropriate building massing for intended use. Moderate building massing by stepping back the building height, varying visual height, varying the

front plane of the building, and providing breaks in large developments to allow pedestrian connections.

ii. The façade of the building shall be divided into distinct sections no more than forty (40) feet in width and each section taller than it is wide. Large expanses of blank walls shall be prohibited.

iii. Windows, columns, and other elements shall be used to reinforce the verticality of the façade.

i. Building Composition

i. Incorporate cornice, pediments, varying roof lines, windows, entrances and projecting canopies.

ii. Incorporate common design elements from adjoining developments where a design concept or style exists. Respect scale, massing, and materials of adjacent development.

iii. Define the building entrance with appropriate prominence and visibility.

j. Building Articulation

i. For ground level retail uses, the façade surface area shall incorporate a minimum of 50% window or void area.

ii. For ground level office and other commercial uses, the façade surface area shall incorporate a minimum of 35% window or void area.

iii. For upper levels of all commercial uses, the façade surface area should incorporate a minimum of 20% window or void area.

iv. All buildings shall incorporate a "base, body, and cap".

1) The base may be established by use of a different material or color. The base may be an entire level for a multi-level building or a minimum of 24" for a single level building. For building with large expanses of glass on the first floor the base may be established with a minimum of an 8" raised mullion.
2) The body of the building should be a minimum of 50% of the area of the façade.
3) The cap may be established with a cornice or a molding. The cap may be an entire level for a multi-level building.

k. Materials

i. General Standards

1) Materials shall be consistent on all sides of a building with direct public visibility.
2) Materials shall be chosen in consideration of materials used on neighboring structures.
3) A palette of materials shall be established for all projects.
4) Developments with multiple buildings may have multiple palettes of materials. However, the individual palettes should be coordinated for some shared materials.
5) More durable materials, such as brick and stone, shall be utilized in high impact areas such as the base of walls and adjacent to entrances. EIFS and other materials susceptible to impact shall not be used in these locations.

6) Primary materials shall compose at least 75% of the façade for all sides of a building with direct public visibility and at least 50% of the façade for the entire building. No more than 10% of the façade for the entire building may be accent materials.

ii. Commercial Uses
1) Primary materials shall be brick, cast stone, or synthetic stone.
2) Secondary materials may be EIFS, cementitious siding or panels, ground-face or polished-face concrete masonry (integrally colored), or architectural metal panels with durable finish and defined profile.
3) Accent materials may be metal copings, flashings, and trim, wood trim, cementitious trim, or any other material not specifically allowed as a primary or secondary material.

iii. Multi-Family Uses
1) Primary materials shall be brick, cast stone, synthetic stone, or cementitious siding.
2) Secondary materials shall be brick, stone, synthetic stone, cementitious siding, ground-face or polished-face concrete masonry (integrally colored), painted wood, architectural metal panels with durable finish and defined profile, or vinyl trim.
3) Accent materials may be metal copings, flashings, and trim, wood trim, cementitious trim, or any other material not specifically allowed as a primary or secondary material.

iv. Industrial Uses
1) Primary materials shall be brick, tilt-up concrete panels (painted), ground-face or polished-face concrete masonry, or architectural metal panels with durable finish and defined profile.
2) Accent materials may be metal copings, flashings, and trim, wood trim, cementitious trim, or any other material not specifically allowed as a primary material.

l. Color
i. General Standards
1) Provide a coordinated palette of all materials and colors.
2) Avoid bright and vibrant colors for primary materials.
3) Bright and vibrant colors may be used on accent elements to create interest.
4) Developments with multiple buildings may have multiple palettes of materials and colors. However, the individual palettes should be coordinated for some shared materials and colors.

ii. Primary building materials may be up to three colors but shall not be bright or vibrant colors.

iii. Secondary and tertiary building materials may be up to three colors and may be brighter than what is used on the primary building materials.

m. Roof Design

i. All roof mounted equipment, including HVAC units, fans, ductwork, antennas, etc., shall be screened from public view by parapets, roof-mounted screen walls, or other approved methods.
ii. Parapets and towers that project above other portions of the building shall be finished on all visible sides with materials similar to the primary side.
iii. Fuel station canopies shall not be flat. Pitched roofs or other treatments shall be provided to add interest to the roof. Support columns shall be wrapped in brick, stone, or other approved durable material.

7. Landscape

a. Reduce Apparent Size and Visibility of Parking Areas

i. Between street frontage and parking lots a minimum 8 feet wide landscape area shall be provided. All landscape beds planted adjacent to parking lots shall be a minimum of 8 feet wide to accommodate car overhang. All parking lots shall be screened with one 24" high evergreen shrub per 5 linear feet of parking lot frontage. Such shrubs are required to achieve a minimum of 36" height at maturity.

ii. There shall be no more than 15 contiguous parking spaces between landscaped islands.
iii. Existing trees located in parking areas shall be preserved when feasible. Existing healthy trees that are preserved can be used to meet minimum landscape requirements.
iv. The minimum area of any parking lot landscaped area is 75 square feet. For every 250 square feet of required landscape area in parking areas, one tree shall be planted. Tree requirement calculations shall be rounded up from decimals of 0.4 or more. These 250 square feet landscaped areas shall be saturated with profuse groundcover and/or shrubs. Grass in and of itself shall not be considered as meeting these landscaping requirements.
v. All parking area landscape islands shall be planted with a minimum of 1 canopy tree. Canopy trees planted to meet this requirement shall count towards the minimum of one tree per 250 square feet of required landscape area in parking areas.

b. Landscape Areas

i. Landscape beds or areas which meet minimum parking area requirements shall be located immediately adjacent to or within the parking area. Areas with natural vegetation shall be preserved along property boundaries, whenever possible.

ii. Landscape beds provided to meet minimum parking lot requirements must be planted with shrubs or groundcover. Landscape areas provided to meet the remaining overall permeable surface requirements may be planted in grass. The minimum width of any landscape area shall be 5 feet.

iii. Foundation planting is required along all fronts and sides of buildings and any rear facade visible from a public street. Foundation plantings shall be a combination of shrubs and groundcover in consolidated beds and/or planting strips.

iv. On sites with challenging topography, alternate landscaping configurations shall be considered at the discretion of the Department of Planning and Zoning Staff. Such alternate configurations shall adhere to the goals set forth in these guidelines as best as possible.

c. Plant Materials

i. General

1) Plant materials shall be installed at a reasonable size, to provide a sense of presence and to mitigate microclimate impacts caused by development.
2) All landscape zones and plantings installed by the developer shall be in compliance with all planting notes. Size and species identified in the required planting list shall be as specified on the approved landscaping plan.
3) All species and size of species shall be in conformance with the most current edition of the American Standard for Nursery Stock developed by the American Association of Nurserymen, Inc.
4) All landscape beds shall have a minimum of 6" of topsoil. If 6" is not present, topsoil shall be brought on site and placed on landscape beds. All landscape beds and planting areas shall be free from construction debris, concrete, rocks, clods, stumps, and weeds.
5) All landscape plant material shall be planted to avoid conflict with clear sight triangles at intersections as established by the Town of Smyrna.
6) Large areas of gravel, pine straw, bark, mulch or bare soil shall be prohibited. Areas shall be landscaped with sod, seed, turf, groundcover, or shrubs. Decorative stone may be considered in combination with ground cover and shrubs, but shall not exceed 20% of the required mulch area on site.

ii. Trees

1) Canopy trees shall be large enough when installed to have some presence while allowing views to sites and branching above pedestrians walking along the sidewalk. All canopy trees planted in the ESGO District shall be a minimum of 2 ½" caliper. All canopy trees planted along Enon Springs Road shall be a minimum of 3" caliper. At least 10% of required trees shall be a minimum of 4" caliper and an additional 15% of required trees shall be a minimum of 3" caliper. All caliper measurements shall be taken according to the American Standard for Nursery Stock specifications.
2) Evergreen trees shall be min 6' in height, full and well branched; deciduous ornamental trees shall have a minimum caliper of 1 1/2". No more than 25% of site trees may be comprised of ornamental trees.

3) A minimum five feet diameter mulch area shall be provided at the base of all trees.
4) For plantings located within or near power lines, applicants shall refer to Middle Tennessee Electric's list of approved trees: http://www.mtemc.com/pages.cfm/name/bd04_z1_approvedtrees.
5) No trees shall be planted within any Town of Smyrna easement for utility mains or services.
6) Street trees are required along all public streets. These trees are required to be spaced at no less than 1 tree for every 40' of street frontage.
7) Street trees shall be controlled to eliminate conflict with trucks and vehicles on roadways and pedestrians on walkways. Street trees shall be selected to allow for pruning of lower limbs to a minimum of 7 feet clearance over pedestrian ways and 15.5 feet clearance over vehicular streets at the time the tree matures and canopy extends over the street or sidewalk.
8) To provide a consistent effect along Smyrna's arterial streets the preferred street tree species shall be Oak.
9) To provide a consistent effect along all other collector and local (minor) streets, the preferred canopy tree species shall be Willow Oak, London Plane, and Sawtooth Oak.
10) Other street trees that are considered preferable include:
    - *Ulmus parvifolia 'Emerii' or 'Drake'* - Lacebark Elm
    - *Quercus robur 'Fastigiata' or bicolor 'Long'* - Columnar English Oak
    - *Tilia americana 'Pyramidal' or 'Boulevard'* - Columnar American Linden
    - *Ginkgo biloba 'Princeton Sentry'* - Ginkgo
    - *Quercus macrocarpa* - Bur Oak
    - *Zelkova serrata 'Green Vase'* - Japanese Zelkova
11) Ornamental street trees that are considered preferable include:
    - *Lagerstoemia indica* - Upright species of Crape Myrtle
    - *Acer buergerianum* – Trident Maple
    - *Capinus betulus 'Fastigiata'* –Pyramidal European Hornbeam

iii. Shrubs

1) Upright shrubs shall be at least 24-inches high; spreading and/or ornamental shrubs shall have a minimum spread of 18".
2) No shrubs shall be planted within 5 feet of Town of Smyrna utility mains or services.

iv. Grasses

Sod shall be required on 3:1 slopes or greater which are clearly visible from the street or public parking areas. All areas proposed to be covered with grass shall be seeded and strawed or shall be covered with sod at the time of the issuance of the Certificate of Occupancy. It shall be the responsibility of the developer and/or property owner to ensure that grass areas are properly established and maintained.

8. Buffers

a. Purpose

Buffers are intended for use when the impacts of different land uses need to be mitigated through landscape design and transitional features.

b. Performance Criteria

i. Buffers shall provide visual and physical separation between specific and different land uses, and shall be designed to fit within their surroundings, not dominate the view.

ii. Buffers shall be required where commercial or mixed uses adjoin residential areas, where multi-family residential sites adjoin one or two family housing zones, and within Planned Unit Developments with similar adjacencies.

iii. Buffers shall not compromise safety by blocking vision at intersections. They shall not be placed within 75 feet of any street intersection as referenced in Section 3.080 of the Smyrna Zoning Ordinance and shall not be placed so as to obstruct visibility of vehicles entering or leaving driveways.

iv. Buffers are not required between different land uses in the same mixed-use development.

v. Mature natural vegetation shall be retained in such areas and, if necessary, supplemented by new vegetation to screen sight lines. Consideration shall be given on a site by site basis for the removal of existing vegetation.

vi. Buffers shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line, provided they do not block visibility requirements for streets or driveway access.

vii. At the discretion of the Planning Commission, an opaque barrier 6 feet in height may be required to be located within the buffer strip. This shall consist of a fence or wall of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of continuous evergreen plant materials.

c. Minimum Standards

i. Buffers shall consist of a densely planted strip at least 15 feet in width, designed to form an effective buffer in all seasons.

ii. Buffer strips shall consist of 6′ tall evergreen trees planted 15 foot on center with a mature growth height of 10 foot minimum, supplemented with a staggered row of 36″ shrubs 6 foot on center. Shrubs in buffer plantings shall consist of 75% evergreen species and shall grow to a mature height of no less than 6′.

9. Screening

a. Purpose

Screening is intended to conceal specific areas of high visual impact such as, service and loading areas, dumpsters, materials, and utility pads from off-site views.

b. Minimum Standards

i. Vegetative Materials

1) Evergreen plants shall be used for effective year-round screening.
2) Evergreen trees shall be a minimum height of 6 feet at time of planting.
3) Evergreen shrubs shall be upright with the minimum height necessary to fully screen the intended item, but no less than 24 inches at the time of planting.

ii. Fencing & Walls

1) Fencing and walls used shall fully screen all intended items from off-site views and shall be opaque and at least 6' in height.
2) Fencing and walls shall be constructed out of materials that match the materials of the associated building they serve.
3) Supplementary evergreen shrubs shall be included along the fence or wall perimeter, planted at a maximum 5 feet on center and at a minimum height of 18 inches.

c. Performance Criteria

i. Screening of common service areas, truck loading zones, auto repair and storage areas from public streets and adjoining property owners shall be required. Screening shall be achieved with vegetation, fencing, or walls, but must be a minimum of 6' in height.

ii. All dumpster/refuse collection areas shall be enclosed with a masonry wall that is a minimum of two feet in height taller than the top of the refuse container used for collection as well as matches the color and materials of the building with a base and a cap. The enclosure should also have an opaque fence that is the same height as the masonry wall.

iii. Electric transformers, utility pads, water meters, gas meters, electric meters, and ground-mounted air conditioning or mechanical units shall be hidden from public view by screening. Screening may be achieved with vegetation, fencing, or walls.

iv. Screening shall not compromise safety by blocking vision at intersections. They shall not be placed within 75 feet of any street intersection as referenced in Section 3.080 of the Smyrna Zoning Ordinance and shall not be placed so as to obstruct visibility of vehicles entering or leaving driveways.

v. Requirements to screen individual utility boxes and pads in hardscape areas such as private drives and building access routes shall be eliminated if determined to be unfeasible by the Planning Commission.

vi. At the discretion of the Planning Commission screening requirements may be relaxed where areas are located so they are not visible from public streets or adjacent properties.

vii. Screens shall not block access to any above ground pad mounted transformer, and shall provide 15 feet of clear access to the transformer doors.

viii. Screens shall not impede or divert the flow of water in any drainage way.

10. Streets
    a. All streets, both public and private, are required to be designed and constructed to the standards as required by the Town of Smyrna Subdivision Regulations.
    b. All streets must provide means of emergency and service vehicle access.
    c. Developments with private streets shall provide for the long term operation, maintenance and replacement by the Homeowners Association. The H.O.A. must have long term financial capability to meet its obligations.
    d. Streets shall be designed to provide continuation between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire and police protection, efficient provisions of utilities and road maintenance.
11. Streetscapes
    a. Sidewalks are required on both sides of all public streets.
    b. Sidewalks are required to be connected between adjoining neighborhoods and commercial developments.
    c. All public right-of-way shall be graded to anticipate sidewalk connections between lots and across driveway access points.
    d. All sidewalks shall be designed to avoid conflicts with existing and proposed utilities.
    e. All utility lines within new streets shall be underground, unless otherwise approved by the Planning Commission.
    f. Utility boxes and pads shall be consolidated at locations that can be screened. Screening can be accomplished with evergreen shrubs.
12. Site Design
    a. Building Siting and Orientation
        i. The physical entrance to the building shall face the public street.
        ii. All building facades that face a public street shall have the same architectural material treatment.
        iii. A rear façade shall not face a primary façade of an adjacent building unless it is adequately screened or contains architectural treatment that is consistent with the primary façade. Adequate screening shall be equivalent to a Type "C" buffer as established in Section 3.110.
        iv. For multifamily buildings, the building design shall face the public street and/or private road as the primary façade.
        v. End units will be permitted to face the public street and/or private roads with architectural material treatment that is consistent with the primary façade.
        vi. The rear façade facing a public street and/or private road is allowed where year round screening is provided equivalent to a Type "C" Buffer as established in Section 3.110.
    b. Service Facilities Orientation
        i. Service loading and unloading areas shall be located in the side or rear of properties.
        ii. Orientation toward a primary façade of an adjoining building shall not be allowed.

iii. Dumpsters/refuse collection areas shall not be located between the building facade and the street.

c. Parking
   i. On sites of 1 acre or less, no more than one double loaded parking bay is allowed between the building and the street.
   ii. The scale of non-residential parking lots that have 200 parking spaces or more shall be reduced by breaking the lot into smaller sublots utilizing linear landscape islands with a 20′ minimum width. For every 200 parking spaces in the lot, a 20′ wide landscape island is required.
   iii. Shared parking where complementary uses are located is encouraged. Shared accesses are encouraged between different sites via cross access agreements.

d. Sidewalks
   i. All sidewalks shall provide a minimum of 5′ unobstructed width.
   ii. Sidewalks adjacent to parking stall that allow a vehicular overhand on the sidewalk shall be a minimum of 7′ in width.
   iii. Sidewalks shall be developed to connect with adjacent properties and developments in order to promote and reinforce pedestrian connectivity. Sidewalks shall connect building entries within and between developments and shall connect the site to the public right-of-way.
   iv. Truncated domes as required to meet the requirements of the Americans with Disabilities Act shall be brick pavers that are brick red in color.

13. Lighting
   a. Design Criteria
      i. To reduce adverse impacts on adjacent sites and minimize energy consumption, lighting shall be carefully located and its intensity shall be the minimum necessary for safety.
      ii. Lighting levels shall be as even as possible.
      iii. Light fixtures, which cast light primarily downward, shall be used.
      iv. LED lighting is preferred.
      v. Decorative pedestrian scale lighting shall be located along all streets to match fixture style of the lighting utilized by the Town in the Central Depot District.

   b. Site and Parking Area Lighting
      i. Site or parking area lighting shall not cast light beyond property boundaries. Cutoff devices shall be used to avoid throw onto adjacent sites, and the performance standards cited in the Smyrna Zoning Ordinance as applied to off-site glare shall be followed.
      ii. Lighting levels within commercial sites shall vary according to the land use, fixture height and spacing. A range 0.5 - 1.0 foot candles shall be required for

commercial developments and indicated on a photometric plan as part of the Design Review submittal.

iii. The total height of fixtures shall be in proportion to the building mass with a maximum height of 25 feet.

iv. Ground-oriented, pedestrian scale lighting shall be considered as an alternate to pole-mounted fixtures along sidewalks.

v. Lighting fixtures shall be compatible in style with associated buildings.

vi. All proposed light fixtures shall be located on landscape plans to prevent conflicts with landscaping.

14. Signage
    a. Pole signs are not allowed in the Enon Springs Gateway Overlay District. Ground-mounted monument signs as allowed by the Town of Smyrna Sign Ordinance are allowed.
    b. All other private signage within the Enon Springs Gateway Overlay District shall follow the Town of Smyrna Sign Ordinance.
    c. Street and traffic control signage within the Enon Springs Gateway Overlay District shall utilize decorative poles consistent in style with the fixtures required for lighting. All street and traffic control signage shall be coordinated with and approved by the Town of Smyrna Public Works Department.

ARTICLE VI - EXCEPTIONS AND MODIFICATIONS

SECTION

6.010 - Scope
6.020 - Nonconforming Uses
6.030 - Nonconforming Buildings in Floodplain Districts
6.040 - Bulk and Lot Size Non-compliance
6.050 - Exceptions to Height Limitations
6.060 - Lots of Record
6.070 - Exceptions to Setback Requirements
6.080 - Absolute Minimum Lot Size

6.010 Scope.

ARTICLE VI of this ordinance is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in ARTICLE IV and ARTICLE V.

6.020 Nonconforming uses.

This districts established in this ordinance (as set forth in district regulations in ARTICLE V) are designed to guide the future use of land in Smyrna, Tennessee by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible, and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this Article are therefore established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict any expansion of such uses beyond the site which the use occupied upon the effective date of this ordinance.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this Article are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

6.021 Provisions Governing Nonconforming Uses Applicability.

The provisions of this chapter are applicable to all uses which are not permitted within the districts in which they are located. Additionally, buildings and other structures located within the floodway are considered within the regulations of nonconforming uses.

6.022 Construction or Use Permit Approved Prior to Ordinance Adoption.

Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a building permit, then such permit shall automatically lapse and the provisions of this ordinance shall apply.

6.023 Repairs and Alterations.

Nothing in this Article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

6.024 Zone Lot Containing Nonconforming Use.

A zone lot containing a nonconforming use shall not be reduced in area except to comply with Section 6.023.

6.025 Continuation of Nonconforming Use.

Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use (See Section 6.026) is undertaken.

6.026 Change of Nonconforming Use.

6.026.1 General Provisions.

For the purpose of this chapter, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

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

6.026.2 Land With Incidental Improvements.

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

6.026.3 Nonconforming To Conforming Use.

Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed again to a nonconforming use.

6.027 Expansion of Nonconforming Uses.

6.027.1 General Provisions.

Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions as set out below.

6.027.2 Land With Incidental Improvements.

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

6.027.3 Adequate Space for Expansion.

No expansion or any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance. All required yard setback requirements must be adhered to in any such expansion project.

6.027.4 Expansion Limited.

Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land.

6.027.5 Expansion upon Land Subject to Flood.

No expansion of any nonconforming use shall violate the provisions of Section 6.030.

6.028 Damage or Destruction.

6.028.1 General Provisions.

Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve any actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.

6.028.2 Change in Use Prohibited.

No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use (as regulated in Section 6.026 above) to other than a permitted use.

6.028.3 Land in Use Prohibited.

In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined by this ordinance) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall therefore be used only for a conforming use.

6.028.4 Infringement upon Open Space Restricted.

No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this ordinance.

6.028.5 Reconstruction of Flood Damaged Property.

The provisions of Section 6.030 shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within floodway district.

6.029 Discontinuance.

When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of one (1) year, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

6.030 Special Provisions Governing Nonconforming Buildings within the Floodway District.

6.030.1 General Provisions.

In all districts or portions thereof which extend into the floodway districts as established by Section 5.054, any building or other structure or use which is not permitted by the floodway district provisions shall become nonconforming upon the effective date of this ordinance, or subsequent amendment as applicable.

6.030.2 Enlargement of Buildings within the Floodway.

A building or other structure which is nonconforming by reason of location within the floodway shall not be enlarged or expanded but may be altered, or repaired as set forth in Section 6.023 or as may be expressly authorized by the Board of Zoning Appeals in order to incorporate flood-proofing measures provided that such alteration will not increase the level of the 100-year flood or extend the normal life of such nonconforming building or structure.

6.030.3 Special Provisions Governing Reconstruction of Building or Structure Located within the Floodway District.

Within the floodway district any building or structure in existence prior to the effective date of this ordinance that is hereafter destroyed or substantially damaged by any means may be reconstructed and used as before only if the following requirements are met.

A. The reconstruction does not exceed the volume and external dimensions of the original structure and does not offer any greater obstruction to the flow of floodwaters than did the original structure.

B. Nonresidential structures may be reconstructed only if the lowest floor (including basement) elevation is at least one (1) foot above the level of the 100-year flood or the structure is floodproofed (in accordance with the requirements of Section 4.110 to a height of at least one (1) foot above the level of the 100-year flood).

C. Residential structures may be reconstructed only if the lowest floor (including basement) of the structure is elevated to a point at least three (3) feet above the level of the 100-year flood.

D. That no reconstruction or alteration permitted herein shall result in any increase in the level of the 100-year flood.

6.040 Bulk and Lot Size Noncompliance.

6.040.1 General Provisions.

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

6.040.2 Continuation of Use.

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this chapter.

6.040.3 Repairs and Alterations.

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Section 6.040.4 through 6.040.6.

6.040.4 Enlargements or Conversions.

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

6.040.5 Buildings Noncomplying as to Lot Area.

If a building does not comply with the applicable district regulations on lot area per dwelling unit (lot area being smaller than required for the number of dwelling units on such zone lot) such building may be converted (except when in the floodway district), provided that the deficiency in the required lot area is not thereby increased (for example, a noncomplying building on a lot of three thousand five hundred (3,500) square feet, which before conversion required a lot area of 5,000 square feet and was, therefore, deficient by one-thousand five hundred (1,500) square feet, can be converted into any combination of dwelling units allowed in the zoning district in question requiring a lot area of no more than five-thousand (5,000) square feet.

6.040.6 Damage or Destruction of Noncomplying Uses.

A noncomplying building which is damaged or destroyed may be reconstructed, provided the damage or destruction is less than 25% of the assessed value of the structure according to the records of the Rutherford County Assessor of Property at the time of the damage or destruction.

6.050 Exceptions to Height Limitations.

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills not in residential zones, chimneys, smokestacks, conveyors, flag poles, public and semi-public radio towers, masts and aerials. Height exceptions for radio towers and windmills in residential zoning districts shall be allowed only when approved by the Board of Zoning Appeals.

6.060 Lots of Record.

The following provisions shall apply to all existing lots of record:

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

B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.

C. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

6.070 Exceptions to Setback Requirements.

The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

6.080 Absolute Minimum Lot Size.

In no case shall the Zoning Administrator, the Building Official, or the Board of Zoning Appeals permit any zone lot in a residential district to be used as building site which is less than six thousand (6,000) square feet in total area and thirty (30) feet in width at its narrowest point, or

has a front setback of less than fifteen (15) feet and a side setback of less than five (5) feet, with the exception of officially approved planned developments.

ARTICLE VII - ADMINISTRATION AND ENFORCEMENT

SECTION

7.010 - Administration of the ordinance
7.020 - The enforcement officer
7.030 - Building permits
7.040 - Temporary use permits
7.050 - Certificate of occupancy
7.060 - Procedure for authorizing special exceptions
7.070 - Board of Zoning Appeals
7.080 - Variances
7.090 - Amendments to the ordinance
7.100 - Penalties
7.110 - Remedies
7.120 - Separability
7.130 - Interpretation
7.140 - Effective date

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 this ordinance shall be administered and enforced by the Building Official. In performance of administering and enforcing this ordinance, he shall:

A. Issue all Building 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 insure compliance with the various other general provisions of this ordinance. The Building Official 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.

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, or to commence the filling of land without a permit therefore, issued by the Building Official. If said excavation or construction is begun without a proper building permit the building permit fee shall be double or twice the original cost of the permit if legal compliance had been obtained as is required.

No Building Permit shall be issued by the Building Official except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this ordinance.

A. Application:

Application for a Building Permit shall be made in writing to the Building Official on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following:

1. The actual shape, location, and dimensions of the lot to be built upon.

2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.

3. The existing and intended use of all such buildings or other structures.

4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

B. Fee:

The Smyrna Town 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 Official and Town Hall. Only the Town 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. Building Permit Issuance Procedure:

1. Single-Family Residential
   The following items shall be completed prior to the issuance of a building permit for a single-family residential development:

   a. Site plan approval, if necessary (by staff);

   b. Subdivision of land, if necessary;

   c. Water and sewer inspected and approved;

   d. Binder placed on the roads;

   e. All drainage improvements installed;

   f. Approval by the Director of Utilities and the Director of Public Works or their appropriate representatives;

g. Approval of building plans by the Plans Examiner; and

h. All appropriate water, sewer, and gas tap fees must be paid.

2. Multi-Family Residential, Commercial, and Industrial

The following items shall be completed prior to the issuance of a building permit for multi-family residential, commercial, or industrial developments:

a. Site plan approval;

b. Subdivision approval, if necessary;

c. Grading permit approval;

d. Approval of building plans by the Plans Examiner;

e. Approval of appropriate permit(s) from the State Fire Marshall's Office, if necessary; and

f. All appropriate water, sewer, and gas tap fees must be paid.

3. 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 Official shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Official shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as 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 six (6) months. A building permit may be extended by the Building Official if requested by the permit holder prior to the expiration date of the permit. Such request must be accompanied by an application fee as set by the Town Council. A building permit may also be renewed after its'

expiration if application for renewal is filed with the Building Official within 90 calendar days of the expiration date. Such request must be accompanied by an application fee as set by the Town Council. After the 90 day window has expired, continuation of construction requires application for a new building permit at the rate as established by the Town Council.

7.040 Temporary use permit.

It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the Town Building Official, 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 Official on the form provided for that purpose. A schedule of fees shall be established by the Smyrna Town Council. Such schedule shall be posted in the office of the Building Official and Town 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 Official shall have issued a Certificate of Occupancy stating that such 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 Official 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 for such refusal.

Prior to the issuance of the Certificate of Occupancy, all impact fees shall be paid, all parking areas shall be paved where required by site plan approval, and all utilities shall have been inspected and approved. All landscaping, pavement striping, and other items as shown on the approved site plan shall be installed or a letter of credit shall be submitted in accordance with the specifications set forth in Section 3.120.E. However, if the Building Official determines that any of those items must be installed to ensure safety, then installation of said items shall be required.

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 Section 13-7-206 of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Official 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, as well as all pertinent information as cited within Section 3.120.A. of this ordinance which is necessary to properly evaluate the effect that the request will have on adjacent and nearby properties. All such applications shall be presented to the Office of the Town Planner.

B. General Requirements:

A conditional use permit (a special exception) shall be granted provided the Board finds that it:

a. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

b. Will not adversely affect other property in the area in which it is located.

c. Is within the provision of "Special Exceptions" as set forth in this ordinance.

d. 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 Sections 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 make written findings certifying compliance with the specific rules governing individual special exceptions(Section 7.061),

and that satisfactory provisions and arrangement has 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 property in the district.

9. The following additional rules apply for upper story residential development proposals:

    a. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.

    b. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.

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 sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

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 community facilities activities specified herein, only when the following standards established are met as part of the condition for issuing the permit in the applicable zone.

It shall be unlawful to issue any building permit or conditional use permit under Sections 7.030 and 7.060 of this ordinance to any use of land approved as a conditional use or special exception, if such a request for said permit is officially made after a period of twelve (12) months has lapsed between the date wherein the plans for said conditional use (special exception) are officially approved, this being the date of the approval of such plans by the Board of Zoning Appeals, and the date wherein a building permit for said use is officially requested. After this period of time has elapsed, all previously approved plans shall be considered null and void. Thereafter, a new set of plans prepared by either a licensed professional surveyor or engineer, depending upon the nature of said plans, shall be prepared utilizing the current date, to be resubmitted to the Board of Zoning Appeals under the requirements of Sections 7.060 and 7.061 for approval.

No applicable permits shall be issued concerning said request until approval of such plans is obtained from the Board of Zoning Appeals. Letters of credit for such plans shall be provided according to the following provision:

1. All plans presented for review and approval as conditional uses (special exceptions) by the Smyrna Board of Zoning Appeals shall subsequently be bonded by a letter of credit, as per provision 4 below. This surety instrument shall cover improvements shown on the site in the amount of one hundred and twenty (120) percent of cost of said improvements.

2. Said improvements shown on such plans may include, but are not limited to, existing road improvements, buffer strips, landscaping requirements, proposed road construction, parking aisles, parking spaces, driveways, sewer and water extensions or connections, tiles, culverts, drainage ways including catch basins, or any other improvements required by the Board of Zoning Appeals before such plans are approved.

3. A letter of credit authorized by the Planning Commission shall be secured by either an irrevocable letter of credit or cashier's check. The beneficiary of the surety shall be the Town of Smyrna. Such letter of credit shall comply with all statutory requirements and shall be satisfactory to the Town Attorney as to form, sufficiency, and manner of execution.

   Accordingly, such letter of credit must be officially filed and approved on the appropriate form within Appendix B of the Town of Smyrna Subdivision Regulations. Moreover, only commercial banks and federally chartered savings and loan associations located in the Rutherford or Davidson County, Tennessee, shall be acceptable institutions for the issuance of a letters of credit as required for the purposes of these regulations.

4. The letter of credit must be retained for a period of one year from the issuance of the certificate of occupancy for the structure/site requiring previous site plan approval as a conditional use (special exception). If improvements have been made within the one-year period, the Town Council shall release the bond after the inspection of all required improvements, and approval of those improvements by the Board of Zoning Appeals, or its authorized representative. If improvements have not been installed in a satisfactory manner, the Town Council of the Town of Smyrna shall retain and cash the letter of credit to facilitate the completion of such improvements.

7.061.1 Special Conditions for Education Facilities.

A. No such facilities shall be permitted on a zone lot unless such lot contains the acreage recommended for such facilities by the appropriate state agency.

B. The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.

C. The location and design of such facilities shall not have an adverse effect upon surrounding properties.

D. The off-street parking requirements of this ordinance in Article IV, Section 4.010 shall apply.

7.061.2 Special Conditions for Religious Facilities.

A. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district except those facilities proposed in the R-1 and R-4 Districts where the minimum district lot size shall apply.

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 arterial 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.

7.061.3 Special Conditions for Cultural and Recreational Services.

A. No such activity shall be permitted on a zone 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 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 on the properties within the surrounding area.

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

7.061.4 Special Conditions for Government Administrative Services.

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

B. The off-street parking requirements shall be as follows:

Minimum of one space for each three (3) employees, plus one space per three hundred (300) square feet of gross floor area. 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 services 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 on surrounding properties. Fencing, screening, and landscaping may be required as appropriate to protect the surrounding residential area.

F. The site plans for such facility is first approved by the Planning Commission taking into account the above factors as well as any other pertinent factors.

7.061.5 Special Conditions for Intermediate Impact Facilities.

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

B. The traffic generated by such facility shall be safely accommodated along collector and arterial streets without traversing local minor streets.

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

D. The off-street parking requirements shall be based upon a recommendation from the Planning Commission.

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

7.061.6 Special Conditions for Essential Public Transport, Communication, and Utility Services.

A. The location of such facility shall be within an area in order to provide the most efficient service to the community.

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

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

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

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

F. The site plan for such facility is first approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

7.061.7 Special Conditions for Special Personal and Group Care Facilities.

1. Family Day Care Homes

   A. No such facility shall be permitted on a zone lot unless it contains a minimum of twenty (20,000) square feet.

B. All bulk and setback regulations of the district shall be met.

C. One accessory off-street parking space for each five children accommodated in this childcare facility shall be provided.

D. Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up movements by vehicles to enter or exit the zone lot.

E. All regulations of the State of Tennessee that pertain to the use shall be met. All applications shall include a statement from the State of Tennessee, Department of Human Services that affirms that the proposed family day care home has the ability to comply with all regulations of the State of Tennessee with respect to the use.

F. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.

G. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area.

2. Special Conditions for All Other Uses in this Category. Associations for Physically or Mentally Handicapped Persons, Family and Group Care Facilities, Nursing Homes, Retirement or Rest Homes, Orphanages, Day Care Centers.

A. No such facility shall be permitted on a zone 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.

B. All bulk and setback regulations of the district shall be met.

C. The requirement of the accessory off-street parking regulations of this ordinance in Article IV, Section 4.010 shall apply.

D. All regulations of the State of Tennessee shall be met.

E. All public utilities and sewage disposal shall be available to the site, and shall be subject to approval by the Director of Utilities, and site and architectural plans for such a facility shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

F. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.

G. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area

7.061.8 Special Conditions for Scrap Operation Activity (junk yard, salvage yard, etc.), in the I-3 District.

A. The location and topography of the site shall be situated so that fencing, screening, and landscaping can be provided as appropriate.

B. The scrap operation shall not include any open burning activity on the site.

C. The bulk regulations and performance standards of this ordinance shall apply.

D. Insect and rodent control measures shall be provided as approved by the County Health Department.

E. All required fences and landscaped screens shall be maintained in a neat and attractive manner.

F. The operation of such facility shall not have an adverse effect on the properties in the surrounding area.

G. The operation and location of such facility shall not produce damaging pollution to surrounding streams.

7.061.9 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 arterial and collector streets without traversing local minor streets.

C. The off-street parking requirements shall be based upon a recommendation from the Planning Commission; and

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

E. 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 twenty-five (25) 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 a major arterial or major collector. Traffic shall not be directed through residential streets;

(5) Off-street parking shall be provided at a minimum of one (1) space for each two- (2) seats or one-half (1/2) of the total capacity in persons whichever is greater. 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.

7.061.10 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. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district; provided, however, that if such activity includes outdoor animal pens the minimum lot area shall be four (4) acres.

C. Any permit issued hereunder shall be based on a site plan or other documents submitted with an application which shall indicate 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 Zoning Appeals.

D. 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.

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

7.061.11 Special Conditions for Mining 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 two (2) foot intervals.

2. Location of the area in which the proposed quarrying activity is to be conducted.

3. Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.

4. Proposed method of drainage of the quarry area.

5. Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.

6. Methods proposed for blasting. Open blasting commonly referred to, as "pop shots" shall be prohibited.

7. Methods proposed to control noise, vibration and other particulate matter in order to meet the performance standards as set out in this ordinance.

8. Finished contours of the site after the quarrying operation has been terminated. The site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding lands. All fill material shall be a non-toxic, non-flammable, and non-combustible solid. All areas that are back-filled 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.

10. Prior to review and approval of such activity, the developer shall submit eight copies of an Environmental Impact Statement (EIS) and a Reclamation Plan, prepared by an

independent engineer licensed in the State of Tennessee. The following standard format for Environmental Impact Statements shall be followed:

a. Description of the proposed development.

b. Survey of existing environmental conditions. A survey of existing environmental conditions shall include an informative description of these factors:

    1. Slope stability
    2. Foundation conditions
    3. Terrain
    4. Soil erodibility
    5. Watershed boundaries
    6. Highway and bridge capability
    7. Neighborhood character
    8. Population density
    9. Public facilities – within one and one-half (1½) miles of site
    10. Archeological survey

c. Engineering report. An engineering report discussing the details of alternative engineering methods to accomplish the proposed development shall include the following;

    1. Cut and fill operation
    2. Clearing
    3. Removal of ground cover
    4. Erosion control measures
    5. Buffering plan
    6. Blasting procedures and safety measures
    7. Reclamation plan (criteria detailed in part e)

d. An assessment of environmental impact. An identification of the nature, magnitude, and extent of all environmental impacts. Each development should be evaluated based on its potential impact on the environment as well as how the environment will impact the project. Specific impacts to be addressed include:

    1. Impact on geological features and resources
    2. Impact on rock and soil stability

3. Impact on soil erodibility
4. Impact on aquifers, groundwater, and open streams
5. Impact on plant and animal life
6. Impact on social fabric and community structures
7. Impact on aesthetics and character
8. Impact on existing infrastructure including schools, bridges, traffic density and mix, water supply, and other utilities
9. Impact and number of persons exposed or affected by pollutants (parts per million) and noise (db), and indicated time and duration.
10. A detailed description of the measures to be taken during the extraction and reclamation process to assure protection of:

    a. The quantity and quality of surface and groundwater systems, both on and off site, from adverse effects
    b. The rights of present users to such water
    c. Alternative sources of water at least equal in quantity and quality, how it would be obtained by the present users if necessary

11. A list of the steps to be taken to comply with applicable air, water, and blasting laws and regulations

    a. Reclamation Plan. The reclamation plan shall consist of the following:

        1. Use, capability, and productivity of land prior to the development
        2. A description of the use which is proposed to be made of the land following reclamation
        3. A detailed description of how the proposed post-development land use is to be achieved
        4. A list of the revegetation, safety, and engineering techniques proposed to be used in the reclamation
        5. Certificate of public liability insurance
        6. A statement of the consideration which has been given to maximizing the utilization and conservation of the mineral being covered so that re-affecting the land in the future can be minimized
        7. An estimated breakdown on a cost per acre basis of the proposed reclamation

11. Mining/quarrying operations shall not be located closer than 2 miles to any school site, church, or property zoned residential measured from the property line of the operation to the property line of the school, church, or property zoned residential.

12. A mining/quarrying operation shall not be located closer than 3 miles to another mining/quarrying operation, measured from property line to property line.

13. The area of a site where the mining/quarrying activity is taking place shall be a minimum of 1,500 feet from any public right-of-way.

14. Extraction operations shall not be allowed in a floodplain, drainage areas, or areas deemed to be environmentally sensitive.

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 zone lot or adjoining zone 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 zone lots, the outer perimeter of the site shall be considered the lot line.

D. Before issuing a special exception, the Board of Zoning Appeals shall require the owner of the quarry facility to execute a bond as calculated by staff of the Town of Smyrna to restore the land in the manner prescribed in the reclamation plan, including the removal of all structures and machinery. Said bond shall be for a period of two years, with review by the Planning Commission at that time to consider renewal / recalculation of the bond.

E. 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, and

F. The site plan is first approved by the Planning Commission taking into account the above conditions as well as any other factors related to the use and operation of such facilities.

7.061.12 <u>Special Conditions for Intermediate Manufacturing (Commercial Storage of Explosives, etc.)</u>.

A. The location of such an activity shall be 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 Smyrna Fire Department relating to the storage of potential and/or octane explosives shall be met.

D. 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.

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

7.061.13 Special Conditions for Automotive Service and Repair Facilities.

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

B. Fencing, screening, and landscaping shall be provided as appropriate to project the surrounding area. In this respect, there shall be an opaque buffer screening on-site customer and service parking areas from the surrounding properties.

C. All repair and service work must be conducted within a totally enclosed structure(s). There shall be no outdoor storage.

7.061.14 Special Conditions for Special Institutional Care Facilities.

In those districts where authorized as a conditional use, the following supplementary regulations shall apply to all uses classified in the special institutional care activity type.

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

B. Such facility shall be located on streets designated arterial or collector as shown on the adopted Major Thoroughfare Plan.

C. The purpose(s) of the facility must be clearly established by the State of Tennessee, Department of Human Services, Department of Corrections, or any other State sponsored agency or department, if any, that may have regulatory jurisdiction over such facilities and the appropriate staff services must be provided to achieve the stated purpose(s).

D. The facility providing residence facilities shall have resident twenty-four (24) hour staff and appropriate professional services shall be supplied.

E. Off-street parking requirements of this Ordinance in Article IV, Section 4.010, shall apply.

F. The minimum side and rear yards shall be one hundred (100) feet for a one (1) and two (2) story building, increased by ten (10) feet for each additional story. This provision shall only be applicable to new structures. Existing structures may not be expanded unless the addition can meet the aforementioned setback requirements.

G. Any use classified in this category must connect to a public water and sewer system.

H. No facility permitted under the provisions of this section shall be located within one thousand (1,000) feet of any church, day care center, nursery school, public park or another lawfully established special institutional care facility. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the main entrance of the church, day care center, nursery school or public park, where the centerline intersects with the margins of the public road.

I. Screening and/or fencing shall be required along lot lines of the site of the special institutional care facility to block such facility from the view of adjoining property.

7.061.15 Special Conditions for Bed and Breakfasts.

A. Meals shall be served to guests only.
B. The number of rooms available for rent shall be no more than six.
C. The length of stay shall be no longer than ten days.
D. Adequate parking shall be provided as required in Article IV, Section 4.010.1.A (2) (b).

7.061.16 Special Conditions for Temporary Outdoor Sales of Food or Retail Merchandise.

A. Approval in writing of the owner of the subject property where the proposed use is to be located shall be included with the application. The owner may be the applicant.

B. The site shall be improved to provide adequate parking as determined by the BZA and shall provide for an on-site turn around area so that backing onto the street will not be necessary. In the event the proposed location will be on the site of an existing use or structure, the

applicant must provide verification that the total site will continue to meet the minimum parking requirements established in Article IV of this Ordinance.

C. Traffic control measures may be required by the BZA. These may include a requirement that the applicant make provisions for directing traffic during expected peak hours of operation.

D. Tents will be permitted provided they are erected in conformance with all applicable codes. Any such tent must provide emergency exit remote from the point of entrance into the tent. Tents must be located on a paved, concrete, or graveled surface and in no event may be erected in a grass area. Tents must be maintained in good condition.

E. Any site must be located so that all parts of all structures and inventory on the site are no more than five hundred feet from an operable fire hydrant.

F. A site shall not be approved for a period of more than 14 days at any one time and no more than 28 days for any twelve month period. A deposit in the amount of four hundred dollars $400 shall be made with the Town to ensure removal of all temporary structures and merchandise. In the event this removal does not occur in the time specified in the approval of the permit, the deposit shall not be refunded and the Town will remove the temporary structures and merchandise.

G. Adequate provisions shall be made for restroom facilities on the site. In the event the applicant utilizes the restroom facilities of another existing business on site or adjacent to the site, the applicant must submit a written agreement from the affected business owner.

H. No permit shall be granted where the site to be utilized is in violation of any building, fire, electrical, and/or other codes as adopted by the Town.

I. Adequate provision shall be made for solid waste management. If a dumpster is to be located on site, it shall be located in such a manner as to minimize impact on adjoining properties or other businesses on the same lot of record.

J. The BZA may require that additional standards be met in order to assure compatibility of the proposed location with adjoining properties.

K. Within 60 days of the passage of this amendment, any existing site that is in violation of this amendment must be brought into compliance.

7.061.17 Special Conditions for Microbreweries, Microwineries, and Microdistilleries.

A. No outdoor storage is allowed.

B. The maximum building square footage dedicated for such use is 4,000 square feet.

C. An off-street loading and unloading zone must be provided.

D. The door must remain closed for any street facing loading bay except when actively in use.

E. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area.

F. The off-street parking requirements of this ordinance shall apply.

7.061.18 Special Conditions for Adult-Oriented Establishments.

A. No adult-oriented establishment shall be located in any zone except within the I-3 zone.

B. No adult-oriented establishment shall be located within 1500 feet of any public recreational area, including specifically, but not limited to parks, whether town, state, or national, YMCA facilities, museums, theaters, or historical sites listed on the National Register of Historic Places; school or college; day care center; religious facility; cemetery or funeral home.

C. No adult-oriented establishment shall be located within 1350 feet of any residential zone.

D. No adult-oriented establishment shall be located within 2500 feet of Interstate 24 or State Route 840.

E. No adult-oriented business shall be located within 1000 feet of another adult-oriented business.

F. All signs for an adult-oriented establishment shall require sign permits. A signage plan must be submitted and approved at the same time the applicant seeks approval for the special exception.

G. All building elevations of an adult-oriented establishment shall be well lit but in such a manner that the lighting shall not constitute a hazard outside of the site. Building elevations, including a photometric plan, must be submitted and approved at the same time the applicant seeks approval for the special exception.

H. All measurements shall be made in a straight line, without regard to the intervening structures or objects from the nearest property line of the lot where an adult-oriented business operates, to the nearest property line of the premises of the specific use listed above. The presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying distance requirements established herein.

I. All windows and doors shall have an opaque covering such as blinds, drapery, or other material, so as to prevent individuals under the age of eighteen (18) from viewing the materials therein.

J. All adult-oriented establishments shall meet all of the requirements specified in the Smyrna Municipal Code.

7.061.19 Special Conditions for Motor Vehicle Dealers (New and Used), Motorcycle Dealers, Boat Dealers, and Recreational and Utility Trailer Dealers.

A. There shall be a physical separation of any display area or any parking area from the public right-of-way. The separation shall be provided by one of the following options:

1. A solid wall that is no less than 24 inches in height and no more than 36 inches in height. The wall shall be constructed of concrete, stone, brick, or similar materials; or
2. A fence that is no less than 24 inches in height and no more than 36 inches in height that includes solid masonry pillars with wrought iron or similar materials between the pillars.
3. The landscape area as required by Design Review.

B. Chain link fence, barbed wire, razor wire, or similar fencing is prohibited within 25 feet of a public right-of-way.

C. Fencing or walls within 25 feet of a public right-of-way shall be no more than 36 inches in height.

D. The display area for all vehicles for sale or rental on site shall be setback at least 20 feet from the edge of the street to allow for landscaping, visibility for ingress/egress to the site, and other requirements under Design Review. Display areas are specifically prohibited in any landscaped area or public right-of-way.

E. When located within 300 feet of a residential district, no outside speaker system shall be permitted and automobile service doors shall be closed except for entry and exit of automobiles.

F. Service doors facing any district that permits residential uses or a legally occupied residential structure shall be screened by a solid wall or opaque fence with a minimum height of six feet and no more than ten feet, in addition to any required landscape buffer yard.

G. All buildings, structures, and outdoor storage uses shall be located a minimum of 25 feet from any district boundary that permits residential uses or a legally occupied residential structure, and all buildings, structures, and outdoor storage shall be screened from any district boundary that permits residential uses or a legally occupied residential structure by a solid wall or opaque fence with a minimum height of six feet and no more than ten feet, in addition to any required landscape buffer yard.

H. All repair and service operations in conjunction with a sales use shall be conducted entirely within a fully enclosed building.

I. All requirements of the State of Tennessee for this use must be met.

7.061.20 Special Conditions for Automotive Service and Repair.

A. There shall be a physical separation of any display area or any parking area from the public right-of-way. The separation shall be provided by one of the following options:

1. A solid wall that is no less than 24 inches in height and no more than 36 inches in height. The wall shall be constructed of concrete, stone, brick, or similar materials; or
2. A fence that is no less than 24 inches in height and no more than 36 inches in height that includes solid masonry pillars with wrought iron or similar materials between the pillars.
3. The landscape area as required by Design Review.

B. Chain link fence, barbed wire, razor wire, or similar fencing is prohibited within 25 feet of a public right-of-way.

C. Fencing or walls within 25 feet of a public right-of-way shall be no more than 36 inches in height.

D. Service doors facing any district that permits residential uses or a legally occupied residential structure shall be screened by a solid wall or opaque fence with a minimum height of six feet and no more than 10 feet, in addition to any required landscape buffer yard.

E. All buildings, structures, and outdoor storage uses shall be located a minimum of 25 feet from any district boundary that permits residential uses or a legally occupied residential structure, and all buildings, structures, and outdoor storage shall be screened from any

district boundary that permits residential uses or a legally occupies residential structure by a solid wall or opaque fence with a minimum height of six feet and no more than ten feet in addition to any required landscape buffer yard.

F. All repair and service operations shall be conducted entirely within a fully enclosed building.

G. No storage of cars visible from rights-of-way for more than 7 days is permitted.

H. No storage area of wrecked or junked cars is permitted to be visible. Such area must be screened completely by an opaque fence and/or landscaped area as approved by the Board of Zoning Appeals.

I. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the public right-of-way.

7.061.21 Special Conditions for Climate Controlled Self-Storage Facilities.

A. The minimum size of a lot for this use shall be two (2) acres.

B. The maximum size of an individual storage unit shall be six-hundred (600) square feet.

C. Storage units shall not be used for the manufacturing, processing or assembly of goods, the sale of goods, or personal services on the premises or for customer pickup.

D. The operation of equipment or tools shall be prohibited on the premises.

E. Outdoor self-storage shall not be conducted on the same site as climate controlled self-storage facilities.

F. Auctions are prohibited with the exception of an auction conducted by property management for abandoned units.

G. No storage unit doors may be visible from the public right-of-way.

H. A facility shall not be located within 300' from any major intersection. A major intersection shall be defined as any two arterial streets, any arterial and any collector street or any two collector streets.

I. A minimum of 50% of the ground level on the primary street frontage and minimum 20% on any secondary street frontage shall be transparent or contain glass/glazing. The upper levels shall have a minimum of 15%.

J. Street facing facades of buildings shall not exceed 20 feet in length without a building articulation. Permitted articulations include: façade offset with minimum depth of four (4) feet extending the full height of the façade, façade recess or projection with a minimum depth of four (4) inches and minimum width of one (1) foot extending the full height of the first story, variation in building or parapet height a minimum of two (2) feet for single story buildings and four (4) feet for multiple story buildings, use of multiple roof forms.

K. Any other conditions as determined by the Board of Zoning Appeals.

7.070 Board of Zoning Appeals.

In accordance with 13-7-205 Tennessee Code Annotated, a Smyrna Board of Zoning Appeals, consisting of five members, is hereby established. All members of such Board shall be appointed by the Town Council.

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

The members of the Board of Zoning Appeals, shall serve for a three (3) year term, or until their respective successors are appointed and qualified. The Board first appointed should serve respectively for the following terms: one for (1) year, two for (2) years, and two for (3) years. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the Town Council and may be removed from membership on the Board of 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 before the Town Council. Vacancies of said Board of Zoning Appeals should 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 and action taken thereon which shall be public records.

C. Appeals to the Board:

An appeal to the Smyrna 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 Official or other administrative Official 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 Official shall transmit to the Board all papers constituting the record upon which the action appealed was taken.

The Board shall fix a reasonable time for the hearing of the appeal, given public notice thereof, as well as due notice to the parties in interest, and decided 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 Official 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 eminent 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 Official, and on due cause shown.

E. Appeal to the Court:

Any person or persons or any board, taxpayer, department, or bureau of the Town 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. Denial by the Board disallows any future appeal, request for a variance, or request for a special exception regarding the same request on the same property to the Board unless so ordered by a court of competent jurisdiction.

F. Powers of the Board:

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review:

   To hear and decide appeals where the appellant alleges that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Official or other administrative official in the carrying out or 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 variance 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 denial of a permit, a property owner may make application for a variance, using any form that might be made available by the Board of Zoning Appeals.

All applications must contain all pertinent information as cited in Section 3.120.A. within this ordinance necessary to clearly ascertain the relationship of the applicable land use to its subject property, as well as to all adjacent properties, along with any necessary supporting information as required, in order that the board be able to clearly analyze and evaluate said variance request.

B. Fee:

A fee as set by the Town Council payable to the Town of Smyrna 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 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 thirty (30) days of such hearing and in accordance with the standards provided below.

D. Standards for Variances not Involving Special Flood Hazard Areas

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, 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 must be stated.

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 districts.

7. The variance is the minimum 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 Town Council of the Town of Smyrna. Any member of the Town Council may introduce such legislation, or any official, board, or any other person may present a petition to the Town Council requesting an amendment or amendments to this ordinance. These amendments must be in relation to the Comprehensive Plan and the general welfare of the community.

An application by an individual for an amendment shall be accompanied by a fee as set by the Town Council payable to the Town of Smyrna, and shall also 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.

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

The Planning Commission in its review and recommendation and the Town Council in its deliberation shall make specific findings with regard to the following grounds for an amendment and shall note that 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 breached;

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 Smyrna 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 the thirty-(30) days, it shall require the favorable vote of a majority of the entire membership of the Town 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 recommended approval of 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, received the favorable vote of a majority of the entire membership of the Town Council.

Before enacting an amendment to this ordinance, the Town Council shall hold a public hearing thereon, at least twenty-one (21) days notice of the time and place of which shall be published in a newspaper of general circulation in the Town of Smyrna.

7.100 <u>Penalties</u>.

Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and shall be fined not less than twenty-five (25) dollars nor more than fifty (50) dollars 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 Official 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 an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, or 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 valid 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 from and after the date of its adoption, the public welfare demanding it.

ARTICLE VIII - DESIGN REVIEW

SECTION

8.010 - Intent and Purpose
8.020 - Role of the Smyrna Planning Commission
8.030 - Design Review Manual
8.040 - Development Subject to Design Review
8.050 - Development Exempt from Design Review
8.060 - Design Review Applications and Processing
8.070 - Design Review Standards
8.080 - Public Works
8.090 - Application; Vested Rights
8.100 - Continuing Maintenance
8.110 - Prohibitions

8.010 Intent and purpose.

The purpose of this article is to conserve property values within the Town of Smyrna by establishing procedures for the design review of each development henceforth erected, reconstructed, or altered, and thereby

A. To promote qualities in the environment that sustains the community's economic well-being.

B. To foster the community's attractiveness and functional utility as a place to live and work.

C. To preserve the community's heritage by maintaining the integrity of any area(s) enjoying a discernible character contributing to this heritage.

D. To safeguard public investment within the community.

E. To raise the level of citizen expectations favoring the quality of the community's visual environment.

8.020 Role of the Smyrna Municipal Planning Commission.

The Smyrna Municipal Planning Commission shall administer the provisions of this article in its' dual role as the Planning Commission and Design Review Commission as established by the Town Council under T.C.A. 6-54-133. These provisions include the following, without limitation:

A. Certification that proposed development comports with the design standards set forth herein.

B. Recommend amendments, as necessary, to the Design Review Manual for approval by a majority of the entire membership of the Smyrna Town Council.

C. Consultation with municipal and other appropriate agencies on matters addressed in this article.

D. Adoption of such rules of procedure as the Planning Commission may deem necessary.

8.030 Design Review Manual.

To further the purposes of this article as set forth herein, there is hereby adopted a Design Review Manual. Amendments to the Design Review Manual, shall be made by ordinance approved by a majority of the entire membership of the Smyrna Town Council, with appropriate input from the Smyrna Municipal Planning Commission.

8.040 Development Subject to Design Review.

Development, including any buildings, structures, or physical improvements pertaining thereto, shall be subject to the provisions of this article if:

A. Approval of this development is conditioned upon one or more of the following:

1. Plot Plan or Site Plan approval under ARTICLE III, including a new structure or any addition to an existing structure totaling fifty (50) percent of the gross floor area.

2. Final planned unit development master development plan approval under ARTICLE IV, unless the plan envisages the construction exclusively of one- and two-family dwellings.

B. The development is a public building costing in excess of twenty-five thousand dollars ($25,000) which may be regulated by the Town of Smyrna under applicable law. Any other government entity will be strongly encouraged to comply.

C. Any development, which requires approval by the Planning Commission, which the planning staff determines to possess, design characteristics that merit review under this article. Reasons for the planning staff's determination must be clearly stated in writing. Appeals from the staff's determinations shall be filed with the Planning Commission within sixteen (16) days thereof, and resolved by the commission within sixty (60) days of said filing.

Development within the Town limits shall be subject to the provisions of this article.

8.050 Development exempt from Design Review.

Reconstruction or repairs required for immediate public health or safety reasons, as determined by the Town Manager or his designee, are expressly exempted from the requirements of this article. Development on property zoned C-1 under the Town of Smyrna Zoning Ordinance is also exempt. Development on property zoned C-3 is subject to Design Review, but due to the size and shape of parcels within that district the Planning Commission may require the landscaping specifications in Section 3.150 of the Zoning Ordinance in lieu of the requirements in the Design Review Manual.

8.060 Design Review applications and processing.

8.060.1 Pre-application Conference.

Any prospective applicant for a development approval permit that may require design certification under this article may request a preliminary conference with the planning staff by filing a written request no later than sixteen (16) days prior to the planning staff meeting at which the pre-application conference is sought. Accompanying the request shall be ten (10) copies of such preliminary exterior drawings, site plans, and related materials as the applicant wishes to bring to the planning staff attention. Viewpoints expressed by the planning staff shall be advisory only; no legally enforceable rights or expectations of any kind shall vest until the

applicant's formal application for design review has been processed in accordance with all the provisions of this article.

8.060.2 Submission to Planning Staff; Review by Staff.

Applicants for design review certification shall submit to the Town Planning Staff, the photographs, site plans, site landscaping plans and schematic building plans referenced in Section 3 of the Design Review Manual, adopted by the Town of Smyrna, concurrent with the adoption of this article. The Town Planning Staff will review all submittals. Written comments of all planning staff members will be made available to developers at least one week prior to the Planning Commission meeting, in which their project will be heard. Only on determining that the application comports with the requirements of Section 3, the Town Planning Staff shall transmit the application with all written staff comments and recommendations to the Planning Commission members.

8.060.3 Review by Planning Commission.

The Planning Commission shall approve with conditions or disapprove an application for design review certification within sixty (60) days of the application's initial review by the Smyrna Municipal Planning Commission, unless the commission and the applicant agree to a greater time period. Absent such an agreement, all applications not acted upon by the Planning Commission within sixty (60) days shall be deemed approved. Minutes shall be kept of the Planning Commission's proceedings and reasons for its' decisions shall be clearly stated in this record. An approved application and its' supporting exhibits shall be endorsed as approved by the Commission or its' authorized representative.

8.060.4 Appeal of Planning Commission Actions.

Any person aggrieved by a planning commission action under this article may appeal the action to the Town Council per TCA 6-54-133. Any appeal shall be made by the property owner within 60 days of the date of the Planning Commission decision. The appeal will be heard by the Town Council at the next available meeting.

8.070 Design Review Standards.

In reviewing applications, the Planning Commission shall ensure that the proposed development satisfies the criteria for the applicable category or type of development as these criteria are set forth, by category or type, in the Town of Smyrna Design Review Manual, and in

any pertinent Town of Smyrna land use or building regulations and ordinance. In the case of a conflict between ordinances, the more stringent shall govern.

8.080 Public Works.

In reviewing the design of public buildings as specified in Section 8-201, (B), of this ordinance, undertaken by governmental agencies, other than the Town of Smyrna, the Planning Commission shall submit a written report of its' recommendations to the agency proposing to construct the public project and seek to the extent permitted under applicable law or through communication with the agency to secure such modifications in the work's design as comport with the standards of this article.

8.090 Application; Vested Rights.

The provisions of this article shall not be applicable to any property owner whose actions prior to this article's effective date have created a vested right to develop under applicable state or federal law. All other development or proposed development shall be subject to the article's provision.

8.100 Continuing Maintenance.

Following the construction or modify action of any development, the design of which is approved pursuant to this article, the development shall be maintained in accordance with the following standards:

A. Buildings and appurtenances, including signs, shall be cleaned and painted or repaired as required to maintain an attractive appearance.

B. Illuminated elements of buildings and signs shall be replaced as required to maintain the effect for which designed.

C. Landscape materials, other than plantings, which have deteriorated shall be reconstituted or replaced.

D. Plantings shall be kept watered, fed, cultivated, and pruned to give a healthy appearance during all seasons. Plant materials which have deteriorated shall be replaced with healthy plantings.

E. Parking areas shall be kept in an orderly state, properly marked, and clear of litter and debris.

F. Vacant property shall be kept free of refuse and debris, and shall have the vegetation cut periodically during the growing season as referenced in the Zoning Ordinance.

Failure to comply with the requirements of this section, after a notice of noncompliance has been issued by the Town Planner with a stated time frame for compliance, shall be deemed a violation of this zoning ordinance and shall be subject to the sanctions set forth in ARTICLE VII, SECTION 7.100 as well as to the revocation of any permit, license, certificate or other approval initially issued by the city as a basis for construction and/or occupancy of the development on which the violation has occurred.

8.110 Prohibitions.

No building permit, license, certificate, or other approve entitlement shall be issued or given by the Town with respect to any development subject to design review, until the development has been approved pursuant to this article. No certificate of use or occupancy shall be given for any such development until the Planning Staff has certified that the development has been completed in accordance with the design approved by the Planning Commission; provided, however, that the Planning Staff, in its' discretion, may elect to grant a Certificate of Occupancy subject to a reasonable bond guaranteeing that the applicant will complete the development in accordance the approved design within a time certain. This procedure is detailed in Article VII of this ordinance.

ARTICLE IX - FLOODPLAINS

SECTION

9.010 - Statutory Authorization
9.020 - Statement of Purpose
9.030 - Objectives
9.040 - Definitions
9.050 - General Provisions
9.060 - Administration
9.070 - Provisions for Flood hazard Reduction
9.080 - Variance Procedures
9.090 - Legal Status Provisions

9.010 Statutory Authorization.

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Smyrna, Tennessee Town Council does ordain as follows:

A. The Town of Smyrna, Tennessee, Mayor and its Councilmembers wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.

B. Areas of the Town of Smyrna, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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.

9.020 Statement of Purpose.

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

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

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

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

4. Control filling, grading, dredging and other development which may increase flood damage or erosion;

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

9.030 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 floodprone areas;

F. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

G. To ensure that potential homebuyers are notified that property is in a floodable area;

H. to maintain eligibility for participation in the National Flood Insurance Program (NFIP).

9.040 Definitions.

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

ACCESSORY STRUCTURE: A subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

ADDITION (TO AN EXISTING BUILDING): Any walled and roofed expansion to the perimeter of a building.

APPEAL: A request for review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for variance.

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

AREA OF SPECIAL FLOOD-RELATED EROSION HAZARD: The land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special

flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

AREA OF SPECIAL FLOOD HAZARD: see SPECIAL FLOOD HAZARD AREA.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

BASEMENT: Any portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING: See STRUCTURE.

CONDITIONAL LETTER OF MAP REVISION (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the FIRM.

DEVELOPMENT: 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.

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

EMERGENCY FLOOD INSURANCE PROGRAM OR EMERGENCY PROGRAM: The program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

EROSION: The process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

EXCEPTION: A waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

EXISTING CONSTRUCTION: 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).

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, 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).

EXISTING STRUCTURES: See EXISTING CONSTRUCTION.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING:

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

    1. The overflow of inland or tidal waters;
    2. The unusual and rapid accumulation or runoff of surface waters from any source.
    3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining 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

flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

FLOOD ELEVATION DETERMINATION: A determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM): 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.

FLOOD INSURANCE RATE MAP (FIRM): 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.

FLOOD INSURANCE STUDY: 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.

FLOODPLAIN OR FLOODPRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

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

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

FLOOD-RELATED EROSION AREA OR FLOOD-RELATED EROSION PRONE AREA: A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

FLOOD-RELATED EROSION AREA MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

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

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

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

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

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

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

LEVEE SYSTEM: A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP: The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

MEAN SEA LEVEL: 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) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

NATIONAL GEODETIC VERTICAL DATUM (NGVD): As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION: Any structure for which the "Start of Construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

NORTH AMERICAN VERTICAL DATUM (NAVD): As corrected in 1988, is a vertical control used as a reference for establishing varying elevations within the floodplain.

100-YEAR FLOOD: see BASE FLOOD.

PERSON: Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

REASONABLY SAFE FROM FLOODING: Base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

RECREATIONAL VEHICLE: A vehicle which is:

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

REGULATORY FLOODWAY: 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.

REGULATORY FLOOD PROTECTION ELEVATION: The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 3 feet for residential structures and it shall be the BFE plus 1 foot for nonresidential structures. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade.

RIVERINE: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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

SPECIAL HAZARD AREA: An area having special flood, mudslide (i.e., mudflow) an/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and include the placement of a manufactured home on a foundation. Permanent construction does not include

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

STATE COORDINATING AGENCY: The Tennessee Emergency Management Agency, State NFIP Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

STRUCTURE: For purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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

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

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS: Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

VARIANCE: A grant of relief from the requirements of this Ordinance.

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

WATER SURFACE ELEVATION: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

9.050 General Provisions.

A. Application

This Ordinance shall apply to all areas within the incorporated are of Smyrna, Tennessee.

B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the Town of Smyrna, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47149C0108H and 47149C0131H dated January 5, 2007 and 47149C0020K, 47149C0040K, 47149C0045J, 47149C0105J, 47149C0106J, 47149C0107K, 47149C04109K, 47149C115K, 47149C0116K, 47149C0117K, 47149C0118K, 47149C0126K, 47149C0127J, 47149C0128J, 47149C0129J, and 47149C0140J dated May 9, 2023, along with all supporting technical data, are adopted by reference and declared to be a part of the Ordinance.

C. Requirement for Development Permit

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

D. Compliance

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

E. Abrogation and Greater Restrictions

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

F. Interpretation

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

G. Warning and Disclaimer of Liability

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

H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation

continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Smyrna, Tennessee from taking such other lawful actions to prevent or remedy any violation.

9.060 Administration.

A. Designation of Ordinance Administrator

The Town Planner is hereby appointed as the Administrator to implement the provisions of this Ordinance.

B. Permit Procedures

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

1. Application stage

    a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
    b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to a certain height above the highest adjacent grade when applicable under the Ordinance.
    c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Section 9.070 A and B.
    d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
    e. In order to determine if improvements or damage meet the Substantial Improvement or Substantial Damage Criteria, the applicant shall provide to the Floodplain Administrator a detailed cost to repair all damages and/or cost of improvements which includes the complete costs associated with all types of work necessary to completely repair or improve a building. These include the costs of all

materials, labor, and other items necessary to perform the proposed work. These must be in the form of:

i. An itemized cost of materials, and labor, or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators
ii. Building valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services.
iii. A qualified estimateof costs that is prepared by the local official using professional judgement and knowledge of local and regional construction costs.
iv. A detailed cost estimate provided and prepared by the building owner. This must include as much supporting documentation as possible (such as pricing information from lumber companies, plumbing and electrical suppliers, etc.). In addition, the estimate must include the value of labor, including the value of the owner's labor.

2. Construction Stage

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

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

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

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

3. Finished Construction Stage

   A final Finished Construction Elevation Certificate is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Administrator will keep the certificate on file in perpetuity.

4. 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 reasonable safe from flooding.
   b. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
   c. Notify adjacent communities and the Tennessee Emergency Management Agency, State NFIP Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
   d. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
   e. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
   f. 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 Section 9.060 B.

g. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Section 9.060 B.

h. When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Section 9.060 B.

i. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

j. When base flood elevation data or floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Smyrna, Tennessee FIRM meet the requirements of this Ordinance.

k. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

l. A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certificate of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with view confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when

applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

9.070 Provisions for Flood Hazard Reduction.

A. General Standards

In all flood prone areas the following provisions are required:

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

11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 22 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Section 9.070 B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard ricks zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Section 9.070 A, are required:

1. Residential Construction:
   In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than three (3) feet above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

   Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 9.040). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

2. Non-Residential Construction:
   In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall

have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Section 9.040). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Section 9.060 B.

3. Enclosures:
   All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

   a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet the following minimum criteria:
      1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
      2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;

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

b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or storage or building access.

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Section 9.070 B.

4. Standards for Manufactured Homes and Recreational Vehicles

a. All manufactured homes placed, or substantially improved on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all of the requirements of new construction.

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

1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than three (3) feet above the level of the Base Flood Elevation or,

2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Section 9.040).

c. Any manufactured home which has incurred "substantial damage" as the result of a flood, must meet the standards of Section 9.070 A and B.

d. All manufactured homes must be securely anchored to an adequately anchored to resist flotation, collapse, and lateral movement.

e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:

1) Be on the site for fewer than 180 consecutive days;

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

3) The recreational vehicle must meet all of the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals:

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

a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Section 9.070 E).

C. 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 Section 9.050 B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris, or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including fill, 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 encroachments shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
2. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revisions, fulfills the requirements for such revisions as established under the provisions of Section 65.12, and receives the approval of FEMA;

3. ONLY if Section 9.070 C, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Section 9.070 A and B.

D. 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 Section 9.050 B, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. Require until a regulatory floodway is designated, that no new construction, substantial, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed 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.
2. A community may permit encroachments within Zones AE on the community's FIRM, that would result in an increase in the water surface elevation of the base flood, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revisions as established under the provisions of Section 65.12, and receives the approval of FEMA;
3. ONLY if Section 9.060 D, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Section 9.070 A and B.

E. Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Section 9.050 B, where streams exist but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data

developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Section 9.070 A and B.

2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation Data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 9.040). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 9.070 B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 9.070 B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Town of Smyrna, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 9.707 A and B. Within approximate A Zones, require that those subsections of Section 9.070 B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

F. Standards for Areas of Shallow Flooding (Zone AO)

Located within the Special Flood Hazard Areas established in Section 9.050 B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 9.070 A and B, all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot above the highest adjacent grade; or at least three (3) feet above the highest adjacent grade, if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 9.070 F91) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 9.060 B (1) (c) and Section 9.070 B (2).
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

G. Standards For Areas of Shallow Flooding (Zone AH)

Located within the Special Flood Hazard Areas established in Section 9.050 B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of Section 9.070 A and B, all new construction and substantial improvements shall meet the following requirements:

1. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

H. Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Section 9.050 B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Section 9.060 and Section 9.070 shall apply.

I. Standard for Unmapped Streams

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

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Smyrna.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Sections 9.060 and 9.070.
3. ONLY if Section 9.070 I, provisions (1) and (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Section 9.070 A and B.

9.080 Variance Procedures.

A. Municipal Board of Zoning Appeals

1. Authority

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

2. Procedure

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

3. Appeals: How Taken

   An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the

provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee as established by the Town Council for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties interest and decide the same within a reasonable time which shall not be more than 30 days from the date of hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

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

a. Administrative Review

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

b. Variance Procedures

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

1) The Town of Smyrna, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
    a. The danger that materials may be swept onto other property to the injury of others;
    b. The danger to life and property due to flooding or erosion;
    c. The susceptibility of the proposed facility and its contents to flood damage;
    d. The importance of the services provided by the proposed facility to the community;

e. The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

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

B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Section 9.060 A.

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

3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as $25 for $100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.

4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

9.090 Legal Status Provisions.

A. Conflict with Other Ordinances

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

B. Severability

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

C. Effective Date

This Ordinance shall become effective on June 6, 2023, the public welfare demanding it.

Approved and adopted by the Town of Smyrna Mayor and Town Council.

_____
Date

_____
Mayor, Town of Smyrna, Tennessee

Attest: _____
Town Clerk

____June 6, 2023_____
Date of Public Hearing

_____
Date of Publication of Captioning and Summary

ARTICLE X - SMYRNA/RUTHERFORD COUNTY AIRPORT HEIGHT ZONING ORDINANCE

SECTION

10.010 - Enactment
10.020 - Definitions
10.030 - Airport Zones
10.040 - Airport Zone Height Limitations
10.050 - Use Restrictions
10.060 - Nonconforming Uses
10.070 - Permits
10.080 - Enforcement
10.090 - Judicial Review
10.100 - Penalties
10.110 - Conflicting Regulations
10.120 - Severability

10.010 Enactment.

A. Statutory Authorization. This ordinance is adopted pursuant to the authority conferred by Tennessee Code 42-6-103.

B. Scope. An ordinance regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property, in the vicinity of the Smyrna/Rutherford County Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones, defining certain terms used herein; referring to the Smyrna Airport Part 77, Airspace Plan and avigation easements which are incorporated in and made a part of this ordinance; providing for enforcement; establishing a board of adjustment; and imposing penalties.

C. Purpose. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Smyrna/Rutherford County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Smyrna/Rutherford County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to

destroy or impair the utility of Smyrna/Rutherford County Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Smyrna/Rutherford County Airport.

2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration, or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

D. Title. This ordinance shall be known and may be cited as the Smyrna/Rutherford County Airport Height Zoning Ordinance.

E. Adoption by Airport Authority. The Smyrna/Rutherford County Airport Authority hereby adopted this ordinance when meeting in regular session on October 12, 2005 and recommends its adoption by the Town of Smyrna, City of LaVergne, and Rutherford County to be incorporated into their respective zoning ordinances.

10.020 Definitions.

As used in this Ordinance, unless the context otherwise requires, the following words and terms shall have the following meanings:

A. Airport – Smyrna/Rutherford County Airport

B. Airport Elevation – 543 MSL (Mean Sea Level)

C. Airport Zoning Map – A map produced in order to outline the horizontal and vertical limits beyond which the projection of any structure or tree will constitute an airport hazard, dated 2005 contained in the Airport Master Plan, identified as Part 77, Airspace Plan, and incorporated into this ordinance and made a part hereof.

D. Approach Surface – A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance.

E. Approach, Transitional, Horizontal, and Conical Zones – Zones set forth in Section 10.030 of this Ordinance.

F. Avigation Easements – Perpetual rights for the use and benefit of the public in its use of Smyrna Airport, as described, identified, and recorded with the County of Rutherford, Deed Book 208, Page 145.

G. Board of Zoning Appeals – A Board consisting of five (5) members, appointed by the Town Council as provided in Article 7.070 of the Municipal Zoning Ordinance.

H. Conical Surface – A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4000 feet.

I. Hazard to Air Navigation – An obstruction determined to have a substantial adverse affect on the safe and efficient utilization of the navigable airspace.

J. Height – For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Airport Zoning Map.

K. Horizontal Surface – A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

L. Larger than Utility Runway – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft. Smyrna's runway 01/19 and runway 14/32 meet this designation.

M. Nonconforming Use – Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.

N. Non-Precision Instrument Runway – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance or area type navigation equipment, for which a straight-in non-precision instrument approach procedure

has been approved or planned. Smyrna's Runway 01/19 and Runway 14 meet this designation.

O. Obstruction – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 10.040 of this Ordinance.

P. Person – An individual, firm, partnership, corporation, company, association, joint venture, or governmental entity; includes a trustee, a receiver, and assignee, or a similar representative of any of them.

Q. Precision Runway Instrument – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or other Precision Approach such as a Global Positioning System (GPS). Smyrna's Runway 32 and 14 meet this designation. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document. Smyrna Runway 01 and 19 meet this designation.

R. Primary Surface – A surface longitudinally centered on a runway and extending 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

S. Runway – A defined area of an airport prepared for landing and take-off of aircraft along its length.

T. Structure – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

U. Town Council – Smyrna Town Council

V. Transitional Surfaces – These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

W. Tree – Any object of natural growth.

X. Utility Runway – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Y. Visual Runway – A runway intended solely for the operation of aircraft using visual approach procedures.

Z. Zoning Map – Smyrna Airport's Master Plan Update, Part 77 Airspace Plan, attached to this Ordinance and made a part hereof.

10.030 Airport Zones.

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces as they apply to Smyrna Airport. Such zones are shown on the Smyrna Airport Zoning Map. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive limitation. The various zones are hereby established and defined as follows:

A. Utility Runway Visual Approach Zone (Future Runway 14L/32R) – the inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Runway Larger Than Utility With A Visibility Minimum As Low As ¾ Mile Nonprecision Instrument Approach Zone (Runway 01, Runway 19, and Runway 14) – The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Precision Instrument Runway Approach Zone (Runway 32, future Runway 32L) – The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal

distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. Transitional Zones – The transitional zones are the areas beneath the transitional surfaces.

E. Horizontal Zones – The horizontal zones are established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zones do not include the approach and transitional zones.

F. Conical Zones – The conical zones are established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

10.040 Airport Zone Height Limitations.

Except as otherwise provided in this ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

A. Utility Runway Visual Approach Zone (Future Runway 14L/32R) – Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

B. Runway Larger Than Utility With A Visible Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone (Runway 01, Runway 19, Runway 14, Future Runway 14R) – Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

C. Precision Instrument Approach Zone (Runway 32, Future Runway 32L) - Slopes fifty(50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

D. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 543 feet above mean seal level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the Runway 32 approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

E. Horizontal Zone – Established at 150 feet above the airport elevation or at a height of 693 feet above mean sea level.

F. Conical Zone – Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

G. Excepted Height Limitations – Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height above the surface of the land (AGL) as follows:
   1. Runway 01 – 25 feet
   2. Runway 32 (Future Runway 32L) – 30 feet
   3. Runway 19 – 60 feet
   4. Runway 14 (Future Runway 14R) – 50 feet

10.050 Use Restrictions.

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

10.060 Nonconforming Uses.

A. Regulations Not Retroactive – The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

B. Marking and Lighting – Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Smyrna/Rutherford County Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Airport Authority.

10.070 Permits.

A. Future Uses—Except as specifically provided in a, b and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted by the Town of Smyrna Codes Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 4.

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except

when such tree or structure would extend above the height limit prescribed for such approach zones.

3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section IV.

B. Existing Uses—No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. Nonconforming Uses Abandoned or Destroyed—Whenever the Town of Smyrna determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

D. Variances—Any person desiring to erect or increase the height of any structure or permit the growth of any tree or use property not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Smyrna/Rutherford County Airport Authority for advice

as to the aeronautical effects of the variance. If the Smyrna/Rutherford County Airport Authority does not respond to the application within fifteen (15) days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

E. Obstruction Marking and Lighting—Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary.

10.080 Enforcement.

It shall be the duty of the Town of Smyrna to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Town of Smyrna upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Town of Smyrna shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted thereto.

10.090 Judicial Review.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Zoning Appeals, may appeal to the Court of Town of Smyrna as provided by the laws of the State of Tennessee.

10.100 Penalties.

Violation of the provisions of this Ordinance or failure to comply with any requirements stated herein shall constitute a violation of the Smyrna Municipal Code as well as state code as provided in TCA 42-6-110. Each violation of this ordinance may be punishable under state criminal statutes as provided by the laws of the State of Tennessee. Each day a violation continues to exist shall constitute a separate offense.

10.110 Conflicting Regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with

respect to the height of structures or tree, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

10.120 Severability.

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.