

TITLE 14

ZONING AND LAND USE CONTROL<sup>1</sup>

CHAPTER

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Created.

14-102. Membership; appointment of members; term of office for members.

14-103. Duties.

14-101. Created. There is hereby created a planning commission for the city. (1979 Code, § 11-101)

14-102. Membership; appointment of members; term of office of members. The planning commission shall consist of nine commissioners, including the mayor or his/her designee, one (1) alderman selected by the city council, five (5) commissioners from within the incorporated city limits to be appointed by the mayor, and two (2) commissioners to serve as the regional representatives who reside inside the urban growth boundary area but not inside the corporate limits to be appointed by the mayor. Of the first commissioners appointed by the mayor, two (2) shall be appointed for four (4) years, one (1) shall be appointed for three (3) years, one (1) shall be appointed for two (2) years and one (1) shall be appointed for one (1) year. Thereafter, one (1) commissioner shall be appointed each year for terms of four (4) years. (1979 Code, § 11-102, as replaced by Ord. #3319, March 2008)

14-103. Duties. The planning commission shall have such power and perform such duties as are granted to such commissions by Tennessee Code Annotated, title 13, chapters 4 and 7.

Under the authority of Tennessee Code Annotated, § 13-7-205(a), the Planning Commission is designated the Board of Zoning Appeals. (1979 Code, § 11-103, as amended by Ord. #2731, Feb. 1994)

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<sup>1</sup>Charter reference  
Zoning: § 5(23a).

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Morristown shall be governed by Ordinance Number 2092 dated July 19, 1977, titled "Zoning Ordinance, Morristown, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance No. 2092, dated July 19, 1977, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

FLOOD HAZARD PRECAUTIONS

## SECTION

- 14-301. Findings of fact.
- 14-302. Statement of purpose.
- 14-303. Administration.
- 14-304. Construction standards.
- 14-305. Special standards for mobile homes.
- 14-306. Requirements for a variance.

14-301. Findings of fact. The flood hazard areas of Morristown, Tennessee, are subject to periodic inundation which may 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.

These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by structures vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damages.

The flood hazard areas of Morristown, Tennessee, have been identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Morristown, Tennessee", dated December, 1977, with accompanying Flood Insurance Rate Map #470070 dated June 15, 1978. Said report and accompanying map and any revision thereto are hereby adopted by reference and declared to be a part of this chapter. (1979 Code, § 4-601)

14-302. Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas by provisions designed to:

- (1) Require that buildings vulnerable to floods, including facilities which serve such buildings, be protected against flood damages at the time of initial construction.
- (2) Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- (3) Control filling or grading which may increase erosion of flood damage.

(4) Control the alteration of natural flood plains, streams, channels, and natural protective barriers, which are involved in the accommodation of flood waters. (1979 Code, § 4-602)

14-303. Administration. (1) To insure that the purposes of this chapter are being complied with in regard to the construction or substantial improvement of any building or structure within the flood hazard areas of Morristown, the building inspector shall provide the applicant with the location of the proposed construction with respect to the flood hazard area limits and water surface elevation of the base flood (i.e., 100-year flood) at the proposed construction site.

"Substantial improvement" shall be defined as any repair, construction, improvement, or alteration of structure, the cost of which equals or exceeds 50% of the fair market value of the property or structure. Substantial improvement is considered to have occurred when the first alteration in any wall, ceiling, floor, or other structural part of the building commences. The term does not include any repair, reconstruction, improvement, or alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(2) The building inspector shall require to be included as part of an application for a building permit a plan which details size of structure, finished floor elevation, types of construction materials and finishes, power source and elevations, water supply, sanitary facilities, and, if appropriate, flood proofing measures. (1979 Code, § 4-603)

14-304. Construction standards.

(1) Elevation requirements. Residential structures must be constructed so that the lowest floor, including basement, is located no lower than the base flood elevation (i.e., the 100-year flood elevation).

Non-residential structures may be constructed below the base flood elevation (i.e., 100-year flood elevation) provided they are designed to preclude the inundation of flood waters and withstand the hydrostatic loads associated with the base flood (i.e., structure must be floodproofed to the elevation of the base flood).

(2) Fill. If fill is used to raise the lowest floor to the base flood:

(a) Fill shall consist of compacted soil or small rock materials only. Sanitary land fills shall not be permitted.

(b) Fill shall extend laterally fifteen (15) feet beyond the building line from all points.

(c) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the building inspector.

(d) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

(e) Where a floodway has not been identified, no building or fill material shall be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of the bank or 20 feet on each side from top of bank, whichever is greater.

(3) Anchoring. (a) All structures shall be firmly anchored to prevent flotation, collapse, or lateral movement.

(b) All ducts, pipes, storage tanks, and septic tanks shall be firmly anchored to prevent flotation, collapse, or lateral movement.

(4) Floors, Walls and Ceilings (where floodproofing is utilized).

(a) Wood flooring uses below the base flood elevation level shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.

(b) All finished flooring used below the base flood elevation level shall be made of materials which are dimensionally stable and resistant to water damage resulting from submersion for at least a forty-eight (48) hour period.

(c) All carpeting or carpet cushions employed as a finished flooring surface below the base flood elevation level shall be made of materials which are resistant to water damage resulting from submersion for a two (2) day period at least.

(d) Plywood used below the base flood elevation level shall be of any "exterior" or "marine" grade and of a water-resistant or water-proof variety.

(e) Ceilings in non-residential structures located below the base flood elevation level shall have sufficient wet strength and be so installed as to survive inundation and should be provided with drainage holes to prevent collapse due to water trapped above the ceiling.

(5) Electrical and gas utility systems. (a) All electrical and gas water heaters, furnaces and other critical electrical and gas installations shall be permitted only at elevations at or above the base flood elevation level.

(b) No electrical distribution panel shall be allowed at an elevation less than three (3) feet above the base flood elevation.

(c) Separate electrical circuits shall serve levels below the base flood elevation level and shall be dropped from above.

(6) Plumbing. (a) The location, construction, and installation of all potable water supply systems shall be in such a manner as to prevent contamination from flood waters during the base flood. No water supply well shall be located within the foundation walls of a building or structure used for human habitation.

(b) Approved backflow preventers or devices shall be installed on main water service lines, at water wells, and at all building entry locations to protect the system from backflow or back siphonage of flood waters or other contaminants.

(c) Sanitary sewers and storm drainage systems that have openings below the base flood elevation shall be equipped with automatic back water valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.

(d) Sanitary sewer systems, including septic tank systems, that are required to remain in operation during a flood shall be provided with a sealed holding tank and the necessary isolation and diversion piping, pumps, ejectors, and appurtenances required to prevent sewage discharge during a flood. The holding tank shall be sized for storage of at least three (3) days demand.

(7) Paints and adhesives. (a) Adhesives used below the base flood elevation level shall have a bonding strength that is unaffected by inundation.

(b) Doors and all wood trim below the base flood elevation level shall be sealed with a waterproof paint or similar product.

(c) Paints or other finishes used below the base flood elevation level shall be capable of surviving inundation. (1979 Code, § 4-604)

14-305. Special standards for mobile homes.<sup>1</sup> (1) No new mobile home parks, expansion of existing mobile home parks, or placement of any mobile home not in a mobile home park shall be allowed within a floodway.

(2) Mobile homes may be located or relocated in existing mobile home parks located within a floodway as replacements provided that:

(a) Any mobile home site rental or leasing agreement or any contract for and deed of sale clearly states that the land in question has been designated as part of a flood hazard area and may be subject to flooding;

(b) Any mobile home moved into or relocated within an existing mobile home park shall be anchored in accordance with the provisions of subsection (3), parts (a), (b), and (e) of this section;

(c) The owner, operator, or manager of an existing mobile home park shall file with the office of emergency preparedness an evacuation plan indicating alternate vehicular access and escape routes; and

(d) Easy access for a mobile home hauler is provided.

(3) The construction of a new mobile home park, the expansion of an existing mobile home park, or the substantial improvement thereof shall be allowed in flood hazard areas only if the following criteria are met:

(a) Ground anchors for tie downs are provided;

(b) Tie down requirements:

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<sup>1</sup>Municipal code reference

Mobile homes and flood hazard precautions: title 11, ch. 19.

(i) Over-the top ties are required at each of the four corners of the mobile home, with two additional ties per side for mobile homes more than 50 feet long.

(ii) Frame ties are required in conjunction with each over-the-top tie.

(iii) All components of the anchoring must be capable of carrying a force of 4,800 pounds.

(c) Lots or pads are elevated on compacted fill or by any other method approved by the city engineer so that the lowest habitable floor of the mobile home is at or above the base flood level.

(d) Adequate surface drainage and easy access for a mobile home hauler are provided.

(e) Load-bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than ten feet apart, and if the support height is greater than 72 inches, the support must contain steel reinforcement. (1979 Code, § 4-605)

14-306. Requirements for a variance, (1) Upon the submission of a written application to the board of zoning appeals, a variance may be granted permitting the erection of structures with a lowest floor elevation, including basement, lower than regulatory flood elevation if all of the following are met:

(a) The property on which the structure is to be erected is an isolated lot of one-half acre or less, contiguous to and surrounded by existing structures constructed below such required first floor elevation or a structure listed on the National Register of Historic Places or a State Inventory of Historic Places is to be restored or reconstructed;

(b) Good and sufficient cause exists for the granting of the variance; and

(c) Failure to grant the variance would result in exceptional hardship to the applicant; and

(d) The issuance of the variance would not result in increased flood heights, additional threats to public safety, or extraordinary public expense; and

(e) The variance would not have the effect of nullifying the intent and purpose of this chapter.

(2) (a) All applications for variances shall be heard by the board of zoning appeals after reference to such committees and administrative officials as may be established for purposes of investigation and recommendation.

(b) Prior to the granting of a variance, the board must find that justification exists in accordance with the terms of this chapter. These findings, together with the grant of a variance, shall be reduced to writing and made a part of the municipal records. All variances shall pertain to

the particular parcel of land and apply only to the proposed structure set forth in the variance and application.

(c) Such variance shall be freely transferable with the land and shall not be personal to the applicant.

(d) Unless otherwise provided therein a variance shall be valid for a period of one year after the date of its issuance. If construction has not commenced pursuant thereto within such time, said variance shall become void. Lapse of a variance by the passage of time shall not preclude subsequent application for variance.

(e) No variance except herein specifically permitted may be granted from the provisions of this chapter. The variance procedures herein provided shall be the exclusive method for obtaining variances under the provisions herein.

(3) Each written application for a variance shall reflect the type of structures for which a variance is sought, the size of such structures, the approximate location upon the parcel, and the intended use thereof.

(4) Any applicant to whom a variance is granted shall be given notice that the proposed structure will be located in the flood prone area, that the structure will be permitted to be built with a lowest floor elevation a specified number of feet below the regulatory flood elevation, and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced first floor elevation. (1979 Code, § 4-606)

CHAPTER 4

MUNICIPAL FLOODPLAIN ZONING

SECTION

- 14-401. Findings of fact.
- 14-402. Statement of purpose.
- 14-403. Objectives.
- 14-404. Definitions.
- 14-405. Applicability.
- 14-406. Basis for establishing the areas of special flood hazard.
- 14-407. Requirement for development permit.
- 14-408. Compliance.
- 14-409. Abrogation and greater restrictions.
- 14-410. Interpretation.
- 14-411. Warning and disclaimer of liability.
- 14-412. Penalties for violation.
- 14-413. Designation of ordinance administrator.
- 14-414. Permit procedures.
- 14-415. Duties and responsibilities of the administrator.
- 14-416. General standards for flood hazard reduction.
- 14-417. Specific standards for flood hazard reduction.
- 14-418. Standards for areas of special flood hazard with established base flood elevations and with floodways designated.
- 14-419. Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated.
- 14-420. Standards for streams without established base flood elevations or floodways (A zones).
- 14-421. Standards for areas of shallow flooding (AO and AH zones).
- 14-422. Standards for areas protected by flood protection system (A-99 zones).
- 14-423. Standards for unmapped streams.
- 14-424. Variance procedures.

14-401. Findings of fact. (1) The City of Morristown, Tennessee and its city council wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

(2) Areas of Morristown, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(3) These 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. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-402. Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

- (1) Restrict or prohibit uses which are vulnerable to water 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 floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-403. Objectives. The objectives of this chapter are:

- (1) To protect human life, health and property;
- (2) To minimize expenditure of public funds for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
- (7) To ensure that potential homebuyers are notified that property is in a floodable area; and
- (8) To maintain eligibility for participation in the National Flood Insurance Program. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-404. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have

in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

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

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

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

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

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

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

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

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter loadbearing wall, shall be considered "new construction."

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

(5) "Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with one 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.)

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

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

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

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

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

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

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

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

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

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

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

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

(a) The overflow of inland or tidal waters;

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

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

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

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

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

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

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

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

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

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining

caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

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

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

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

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

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

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

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

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

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

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered

historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

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

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

(ii) Directly by the Secretary of the Interior.

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

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

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

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

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

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

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

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

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of the ordinance comprising this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

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

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

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

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

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

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

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

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

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

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any

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

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

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

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

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

(a) The market value of the structure should be:

(i) The appraised value of the structure prior to the start of the initial repair or improvement, or

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

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

(i) 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

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

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

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

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

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-405. Applicability. This chapter shall apply to all areas within the incorporated area of Morristown, Tennessee. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-406. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Morristown, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 470070, dated July 3, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-407. Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-408. Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-409. Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-410. Interpretation. In the interpretation and application of this chapter, 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. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-411. Warning and disclaimer of liability. The degree of flood protection required by this chapter 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 chapter 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 chapter shall not create liability on the part of the City of Morristown, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-412. Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Morristown, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-413. Designation of ordinance administrator. The city engineer is hereby appointed as the administrator to implement the provisions of the ordinance comprising this chapter. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-414. 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 BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(c) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-414

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

(2) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

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

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

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-415. Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

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

(2) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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

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

(5) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-414.

(6) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-414.

(7) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-414.

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

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

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

adjacent grade being defined in § 14-404 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-414.

(10) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-416. General standards for flood hazard reduction. In all flood prone areas the following provisions are required:

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

(2) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

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

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

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

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

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

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

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

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-417. Specific standards for flood hazard reduction. These provisions shall apply to all areas of special flood hazard as provided herein:

(1) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-417.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-404 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-414.

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

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-404 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-414.

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with the accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-414.

(3) Elevated buildings. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

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

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

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

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

(b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-417 of this chapter.

(4) Standards for manufactured homes and recreational vehicles.

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

(i) Individual lots or parcels;

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

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

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

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

(ii) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.

(c) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-417(4) of this chapter.

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

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

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

(ii) 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.

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

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

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

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-418. Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-406, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the

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

(2) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of §§ 14-416 and 14-417. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-419. Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-406, where streams exist with base flood data provided but where no floodways have been designated, (zones AE) the following provisions apply:

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

(2) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-417. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-420. Standards for streams without established base flood elevations or floodways (A zones). Located within the areas of special flood hazard established in § 14-405, where streams exist, but no base flood data has been provided (A zones), or where a floodway has not been delineated, the following provisions shall apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with § 14-405, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal state or other source, in order to administer the provisions of § 14-416 and 14-417. Only if data is not available from these sources, then the following provisions (2) and (3) shall apply;

(2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless

certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(3) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-417 and "elevated buildings." (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-421. Standards for areas of shallow flooding (AO and AH zones). Located within the areas of special flood hazard established in § 14-406, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-418, and "elevated buildings."

(2) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in § 14-415.

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

(4) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file. (Ord. #2522, Feb. 1988, as replaced by Ord. #3244, May 2006)

14-422. Standards for areas protected by flood protection system (A-99 zones). Located within the areas of special flood hazard established in § 14-405 are areas of the 100-year floodplain protected by a flood protection system, but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 zones) all provisions of §§ 14-413--14-416 shall apply. (as added by Ord. #3244, May 2006)

14-423. Standards for unmapped streams. Located within Morristown, 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) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.

(2) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with §§ 14-413--14-416. (as added by Ord. #3244, May 2006)

14-424. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Morristown, Tennessee.

(1) Board of zoning appeals. (a) The Morristown, Tennessee Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

- (ii) The danger to life and property due to flooding or erosion;
- (iii) The susceptibility of the proposed facility and its contents to flood damage;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
- (x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

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

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

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

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood

insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #3244, May 2006)

CHAPTER 5

LAND DISTURBANCE

SECTION

- 14-501. Land disturbing activity erosion and sedimentation control.
- 14-502. Land disturbing activity regulated.
- 14-503. Land disturbing permit required.
- 14-504. Date required in land disturbing permit application.
- 14-505. General requirements.
- 14-506. Performance bond.
- 14-507. Notice of violation.
- 14-508. Misdemeanor and civil penalties.
- 14-509. Appeals.

14-501. Land disturbing activity erosion and sedimentation control. All land disturbing activities shall be in compliance with and permitted under this division of this article. If one acre or more are disturbed, an application shall be applied for under the "State of Tennessee's General NPDES permit for Storm Water Discharges Associated with Construction Activity." If a Tennessee General NPDES permit is applied for, a copy of the Notice of Intent (NOI) as well as a copy of the Notice of Coverage (NOC) issued by the state shall be sent to the city engineer. To seek coverage under the Tennessee Department of Environment and Conservation General Permit the NOI shall be submitted to the following address:

Storm Water NOI Processing  
Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
Environmental Assistance Center  
2700 Middlebrook Pike, Suite 220  
Knoxville, TN 37921

(Ord. #2973, Feb. 1999, as replaced by Ord. #3148, Oct. 2003)

14-502. Land disturbing activity regulated. It shall be unlawful for any person or entity to conduct or permit to be conducted any land disturbing activity upon land owned, leased or controlled by them, or the person or entity conducting any land disturbing activity, including but not by way of limitation, any contractor, all such persons or entities hereafter being jointly and severally referred to as the "controlling party, without a permit issued under this article and, if one acre or more are disturbed, a General Permit for Storm Water Discharges associated with construction activity from the Tennessee Department of Environment and Conservation with a copy provided to the city engineer. The controlling party is subject to the regulations and penalties as

described herein. For purposes of this article the phrase land disturbing activity is defined as follows:

Land disturbing activity. Any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include the following:

(1) "Surface mining" as the same is defined in Tennessee Code Annotated, § 59-8-202;

(2) Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home maintenance work; and other related activities which result in minor soil erosion;

(3) The construction of single-family residences when built separately on lots within subdivisions which have been approved and recorded in the office of the Hamblen County Register; provided that excavation is limited to trenches for the foundation, basements, service and sewer connections, and minor grading for driveways, yard areas and sidewalks;

(4) Individual service and sewer connections for single or two family residences;

(5) Agricultural practices involving the establishments, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices, and the construction of farm buildings;

(6) Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture;

(7) Construction, installation or maintenance of electrical, telephone and cable television lines and poles;

(8) Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard-surface and a street, curb, gutter or sidewalk permit has been obtained; (Note: Work outside of the hard surface requires a permit under this article.)

(9) Construction, repair or rebuilding of tracks or other related facilities of a railroad company;

These activities may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this article and other applicable law including responsibility for controlling sedimentation and runoff. (Ord. #2973, Feb. 1999, as replaced by Ord. #3148, Oct. 2003)

14-503. Land disturbing permit required. No land disturbing activity, whether temporary or permanent, shall be conducted within the City of Morristown until a land disturbing permit shall have been issued by the city engineer allowing such activity pursuant to the provisions of this article, and if required, until issuance of a general NPDES permit for storm water discharges associated with construction activity issued by the Department of Environment and Conservation. Such permit(s) shall be available for inspection by the city engineer or city engineer's representative on the job site at all times during which land disturbing activities are in progress. Such permit(s) shall be required in addition to any building permit or other permit required upon the site. If there is a conflict between the requirements of this ordinance and the general NPDES permit issued by the state, the more stringent requirements shall apply. Issuance of a general NPDES permit by the state shall not relieve the controlling party from compliance with the requirements of this ordinance. A permit application fee of \$50.00 for 0-2 disturbed acres plus \$25.00 per acre or portion thereof above 2 acres with a maximum fee of \$125.00 shall be charged the applicant for review of the application. Failure to obtain any permit required hereunder prior to commencing land disturbing activity, in addition to all other fines and civil penalties provided hereunder, shall increase the permit application fee by one hundred percent. (Ord. #2973, Feb. 1999, as replaced by Ord. #3148, Oct. 2003)

14-504. Date required in land disturbing permit application. (1) Any application for the issuance of a land disturbing permit under this article shall include the following:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name and address of owner of subject property;
- (d) Address and legal description of subject property;
- (e) Name and address of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (f) A statement setting forth the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(2) Each application for a land disturbing permit shall be accompanied by a map or plat of the premises showing the present contour lines and the proposed contour lines resulting from the land disturbing activity in relation to all parts of the premises and the properties immediately adjacent thereto and in relation to all abutting street grades and elevations; such map or plat shall show all existing drainage facilities and the proposed permanent disposition of surface waters upon completion of the land disturbing activity.

(3) Each application for a land disturbing permit shall be accompanied by an erosion and sediment control plan which shall accurately describe the potential for soil erosion and sedimentation problems resulting from the land disturbing activity and shall explain and illustrate the measures which are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage; the plan shall contain a description of the existing site conditions, a description of adjacent topographical features, a description of soil types and characteristics in the area, potential problems of soil erosion and sedimentation, stabilization specifications, storm water management considerations, a time schedule for completion of the land disturbing activity and for maintenance after completion of the project, clearing and grading limits, and all other information needed to accurately depict solutions to potential soil erosion and sedimentation problems. Any erosion and sediment control plan shall be approved by the city engineer prior to the issuance of the land disturbing permit. The land disturbing permit shall be issued in accordance with current policy on issuance of land disturbance permit.

(4) At any time the city engineer determines that an erosion and sediment control plan does not comply with the provisions of this article, he shall notify the applicant in writing of all deficiencies within said plan. (Ord. #2973, Feb. 1999, as replaced by Ord. #3148, Oct. 2003)

14-505. General requirements. No land disturbing activity shall be conducted within the city except in such manner that:

(1) Stripping of vegetation, regarding and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Pre-construction vegetation ground cover shall not be destroyed, removed or disturbed more than twenty (20) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area.

(2) The controlling party shall be responsible upon completion of land disturbing activities to leave slopes so that they will not erode. Such methods could include revegetation, mulching, rip-rapping, or gunniting. If the slopes are to be revegetated, then suitable erosion control matting or sod shall be used on all slopes steeper than 3:1. Slopes shall not be steeper than 2:1 unless approved by city engineer. Regardless of the method used, the objective will be to leave the site as erosion-free and maintenance-free as practicable.

(3) Whenever feasible, natural vegetation shall be retained, protected and supplemented.

(4) Permanent or temporary soil stabilization must be applied to disturbed areas to the extent feasible within seven days on areas that will remain unfinished for more than thirty (30) calendar days. Permanent soil stabilization with perennial vegetation shall be applied as soon as practicable

after final grading is reached on any portion of the site. Soil stabilization refers to measures which protect soil from the erosive forces of wind, raindrop impact and flowing water, and includes the growing of grass, sod, application of straw, mulch, fabric mats, and the early application of gravel base on areas to be paved. Graveled areas shall be considered "temporary soil stabilization" and shall require paving as soon as practicable, but in no event later than ninety (90) days from the date of application of gravel or as approved by city engineer. In industrial zones, graveled storage yards in rear of building are exempt from paving unless subject to erosion.

(5) A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.

(6) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized.

(7) Neighboring persons and property shall be protected from damage or loss resulting from excessive storm water runoff, soil erosion or deposition upon private property or public streets of water transported silt and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare banks.

(8) Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day.

(9) Structural controls shall be designed and maintained as required to prevent pollution. All surface water flowing toward the construction area shall, to the extent practicable, be diverted by using berms, channels or sediment traps as necessary. Erosion and sediment control measures shall be designed according to the size and slope of disturbed or drainage areas, to detain runoff and trap sediment. The runoff rate during construction for the 2, 5, 10, and 25 year design storms shall not exceed the runoff rate for same existing prior to construction. Discharges from sediment basins and traps must be through a pipe or lined channel so that the discharge does not cause erosion. Muddy water shall be pumped through a slit bag prior to its discharge into surface waters where practicable.

(10) All control measures shall be checked, and repaired as necessary, weekly in dry periods and within 24 hours after any rainfall of 0.5 inches within a 24 hour period. During prolonged rainfall, daily checking and repairing shall be performed.

(11) A specific individual shall be designated to be responsible for erosion and sediment controls on each site.

(12) There shall be no distinctly visible floating scum, oil or other matter contained in the storm water discharge. The storm water discharge must not cause an objectionable color contrast in the receiving water. The storm

water discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

(13) When the land disturbing activity is finished and stable perennial vegetation has been established on all remaining exposed soil, the controlling party shall notify the city engineer of these facts and request termination of the permit issued under this section. The city engineer shall then inspect the site within twenty (20) days after receipt of such notice, and when advisable may require additional measures to stabilize the soil and prevent erosion. If such requirements are given by letter, the controlling party shall continue to be covered by the provisions of this section, until a request for termination of the permit has been accepted by the city engineer.

(14) Any land disturbing activity performed prior to enactment of this ordinance which is causing erosion and which is not covered by a valid permit shall be required to be permitted under the provisions of this ordinance within ninety (90) days of effective date of this ordinance. (Ord. #2973, Feb. 1999, as replaced by Ord. #3148, Oct. 2003)

14-506. Performance bond. (3) A performance bond in an amount equal to one hundred fifty percent of the city's estimated cost of completion of the work identified in the permit(s), in form satisfactory to the city shall be required as a condition precedent to the city's issuance of the land disturbing permit. (Section 14-506(a) shall be in effect for a period of one hundred eighty (180) days only beginning with the effective date of this chapter.)<sup>1</sup>

(4) Upon completion of the land disturbing activity and approval of the request for termination, the performance bond will be released subject to any amounts required to be withheld until permanent vegetation is established. (as added by Ord. #3148, Oct. 2003)

14-507. Notice of violation. Whenever the city engineer or his representative determines that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city engineer or his representative may issue a notice of violation to the property owner, utility, facility operator, lessee, contractor, permittee and/or the equipment operator doing work on the site. The notice of violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where violation has occurred;
- (3) List the violation;

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<sup>1</sup>October 7, 2003, is the effective date of this chapter. Therefore, § 14-506 expires April 8, 2004.

- (4) State the action required;
- (5) Provide a deadline for compliance or to stop work. (as added by Ord. #3148, Oct. 2003)

14-508. Misdemeanor and civil penalties. (1) Misdemeanor--unlawful acts. It shall be unlawful for any person to violate any provision of this chapter. Any person found to be in violation of the provisions of this chapter shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day of failure or refusal to comply with any lawful notice to abate violation of this chapter shall be deemed a separate offense and punishable accordingly.

(2) Civil penalty. Any controlling party violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. The city may also recover all damages proximately caused to the municipality by such violations.

(3) In assessing a civil penalty, the municipality may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation that outweigh the benefit of imposing any penalty of damage assessment.

(4) In addition to the civil penalty in subsection (2) above, the city may recover all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating and enforcing violations of this chapter.

(5) The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or in equity, shall be no defense to any such actions.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #3148, Oct. 2003)

14-509. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or

damage assessment as provided by this chapter may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #3148, Oct. 2003)