

**ZONING ORDINANCE FOR THE CITY OF  
TULLAHOMA, TENNESSEE**

Ord. #1392  
Nov. 9, 2009

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November 2009

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**ZONING ORDINANCE FOR THE CITY OF TULLAHOMA,  
TENNESSEE**

**ARTICLE I  
TITLE, PURPOSE, AND ENACTMENT**

**SECTION 1  
TITLE  
ORDINANCE NO. 1392**

In pursuance of authority conferred by the Tennessee Code Annotated, Title 13, Chapter 4, Sections 13-4-101 through 13-4-309. Ordinance to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes; and for such purposes to divide the municipality into districts or zones of such number, shape and areas as it may determine, and regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the use of land; to prescribe penalty for the violation of its provisions and to provide for its enforcement; to repeal Ordinance No. 961, and all amendments thereto.

**SECTION 2  
SHORT TITLE**

These regulations shall be known and may be cited as "**ZONING ORDINANCE FOR THE CITY OF TULLAHOMA, TENNESSEE.**"

**SECTION 3  
PURPOSE**

**WHEREAS**, the Board of Mayor and Aldermen of the City of Tullahoma is empowered to regulate the use of land and buildings, the height of buildings, the size of open spaces, surrounding buildings and the density of population;

And,

**WHEREAS**, the Board of Mayor and Aldermen of the City of Tullahoma deems it necessary to exercise the power so granted in order to encourage the most appropriate use of land; to maintain and stabilize the value of property; to secure safety from fire, flood, panic, and other hazards; to prevent undue concentration of population; and to create a comprehensive and stable pattern

of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, and other facilities; to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants.

**SECTION 4  
ENACTMENT**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE:**

Except as hereinafter provided, no building shall be erected or structurally altered, nor shall any building or premises be used for any purpose, other than permitted in the zoning district in which the building or premises is located. No land or lot area shall be so reduced or diminished that yards or open spaces shall be smaller than prescribed herein, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located. No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space of any other building.

**ARTICLE II  
DEFINITIONS**

For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm, partnership or corporation as well as an individual; the word "lot" includes the word "plot" or "parcel;" the word "building" includes the word "structure;" and the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended, arranged, or designed to be used or occupied."

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them.

**ACCESSORY BUILDING.** An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

**ACCESSORY LIVING QUARTERS.** An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate sleeping unit.

**ACCESSORY USE.** A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

**AGRICULTURE.** The tilling of the soil, raising of crops, farm animals, livestock, horticulture, gardening, beekeeping and aquaculture.

**ALLEY.** Any public way or thoroughfare more than 10 feet, but less than 16 feet, in width, which has been dedicated to the public for public use.

**ALTERATION.** Any change, addition or modification in construction, occupancy or use.

**AMUSEMENT CENTER.** An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

**APARTMENT HOUSE.** A residential building designed or used for three or more dwelling units.

**AUTOMOTIVE REPAIR, MAJOR.** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, which is conducted within a completely enclosed building.

**AUTOMOTIVE REPAIR, MINOR.** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, which is conducted within a completely enclosed building.

**AUTOMOTIVE SELF-SERVICE MOTOR FUEL DISPENSING FACILITY.** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

**AUTOMOTIVE SERVICE MOTOR FUEL DISPENSING FACILITY.** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include automotive repair and maintenance, car wash service, and food sales.

**BASEMENT.** Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

**BOARD.** The board of appeals of the City of Tullahoma.

**BOARDING HOUSE.** A dwelling containing a single dwelling unit and not more than 10 sleeping units, where lodging is provided with or without meals, for compensation for more than one week.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING, MAIN.** A building in which the principal use of the site is conducted.

**BUILDING, TEMPORARY.** A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

**BUILDING CODE.** The International Building Code promulgated by the International Code Council, as adopted by the jurisdiction.

**BUILDING HEIGHT.** The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

**BUILDING LINE.** The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

**BUSINESS OR FINANCIAL SERVICES.** An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

**CANOPY.** A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy

placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.

**COMMERCIAL, HEAVY.** An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

**COMMERCIAL, LIGHT.** An establishment or business that generally has retail or wholesale sales, office uses, or services, which do not generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are retail stores, offices, catering services or restaurants.

**COMMERCIAL CENTER, COMMUNITY.** A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A community commercial center shall provide for the sale of general merchandise, and may include a variety store, discount store or supermarket.

**COMMERCIAL CENTER, CONVENIENCE.** A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A convenience commercial center shall provide a small cluster of convenience shops or services.

**COMMERCIAL CENTER, NEIGHBORHOOD.** A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A neighborhood commercial center shall provide for the sales of convenience goods and services, with a supermarket as the principal tenant.

**COMMERCIAL CENTER, REGIONAL.** A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings, and other retail sales and services, in full depth and variety.

**COMMERCIAL RETAIL SALES AND SERVICES.** Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor “sidewalk” promotions); businesses specializing in the sale of either general merchandise or convenience goods.



**COMPREHENSIVE PLAN.** The declaration of purposes, policies and programs for the development of the jurisdiction.

**CONDITIONAL USE.** A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

**CONDOMINIUM.** A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

**CONGREGATE RESIDENCE.** Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking for occupancy by other than a family. A congregate residence shall be permitted to be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

**COURT.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

**DAY CARE, FAMILY.** The keeping for part-time care and/or instruction, whether or not for compensation, of six or less children at any one time within a dwelling, not including members of the family residing on the premises.

**DAY CARE, GROUP.** An establishment for the care and/or instruction, whether or not for compensation, of seven or more persons at any one time. Child nurseries, preschools and adult care facilities are included in this definition.

**DENSITY.** The number of dwelling units that are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.

**DRIVEWAY.** A private access road, the use of that is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

**DWELLING, MULTIPLE UNIT.** A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

**DWELLING, SINGLE FAMILY.** A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

**DWELLING, TWO FAMILY.** A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

**FACE OF BUILDING, PRIMARY.** The wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

**FARM ANIMALS.** Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

**FLOOR AREA, GROSS.** The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

**FLOOR AREA, NET.** The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

**FRONTAGE.** The width of a lot or parcel abutting a public right-of-way measured at the front property line.

**GARAGE, PRIVATE.** A building or a portion of a building not more than 1,000 square feet in area, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

**GRADE (Adjacent Ground Elevation).** The lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

**GROUP CARE FACILITY.** A facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged,

disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.

**HABITABLE SPACE (Room).** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**HOME OCCUPATION.** The partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

**HOSPITAL.** An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

**HOUSEHOLD PETS.** Dogs, cats, rabbits, birds, etc., for family use only (noncommercial) with cages, pens, etc.

**INDUSTRIAL OR RESEARCH PARK.** A tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

**JURISDICTION.** As used in this code, jurisdiction is any political subdivision that adopts this code for administrative regulations within its sphere of authority.

**KITCHEN.** Any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

**LANDSCAPING.** The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

**LEGISLATIVE BODY.** The political entity of the adopting jurisdiction.

**LIVESTOCK.** Includes, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hooved animals.

**LOT.** A single parcel of land.

**MANUFACTURING, HEAVY.** All other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

**MANUFACTURING, LIGHT.** The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

**MANUFACTURING, MEDIUM.** The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

**MORTUARY, FUNERAL HOME.** An establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings, and/or display of funeral equipment.

**MOTEL, HOTEL.** Any building containing six or more sleeping units intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

**NONCONFORMING LOT.** A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

**NONCONFORMING SIGN.** A sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not now conform.

**NONCONFORMING STRUCTURE.** A building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

**NONCONFORMING USE.** See “Use, nonconforming.”

**OPEN SPACE.** Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

**PARK.** A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

**PARKING LOT.** An open area, other than a street, used for the parking of automobiles.

**PARKING SPACE, AUTOMOBILE.** A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

**PERSON.** A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

**PLANNED UNIT DEVELOPMENT (PUD).** A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

**PLOT PLAN.** A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

**POOLS (SWIMMING), HOT TUBS AND SPAS.**

Above-ground/on-ground pool. See “Private swimming pool.”

**Barrier.** A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

Hot tub. See “Private swimming pool.”

In-ground pool. See “Private swimming pool.”

**Power safety cover.** A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

**Private swimming pool.** Any structure that contains water over 24 inches (610 mm) in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in Use Group R-3 and which is available only to the family and guests of the householder. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas.

Private swimming pool, indoor. Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

Private swimming pool, outdoor. Any private swimming pool that is not an indoor pool.

Public swimming pool. Any swimming pool other than a private swimming pool.

Spa. See "Private swimming pool."

**PUBLIC IMPROVEMENT.** Any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or for which the local government responsibility is established.

**PUBLIC SERVICES.** Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

**PUBLIC UTILITY STATION.** A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

**PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**QUASI-PUBLIC.** Essentially a public use, although under private ownership or control.

**QUORUM.** A majority of the authorized members of a board or commission.

**RECREATION, INDOOR.** An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

**RECREATION, OUTDOOR.** An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

**RECYCLING FACILITY.** Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

**REHABILITATION CENTER (Halfway House).** An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

**RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY.** A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

**RENOVATION.** Interior or exterior remodeling of a structure, other than ordinary repair.

**RESTAURANT.** An establishment that sells prepared food for consumption. Restaurants shall be classified as follows:

Restaurant, fast food. An establishment that sells food already prepared for consumption, packaged in paper, styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

Restaurant, general. An establishment that sells food for consumption on or off the premises.

Restaurant, take-out. An establishment that sells food only for consumption off the premises.

**SCHOOL, COMMERCIAL.** A school establishment to provide for the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school or modeling school).

**SETBACK.** The minimum required distance between the property line and the building line.

**SIGN.** An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service, including the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers.

**SIGNS, COMMUNITY.** Temporary, on- or off-premises signs, generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction-based nonprofit organization.

**SITE PLAN.** A plan that outlines the use and development of any tract of land.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**STORY.** That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

**STREET.** Any thoroughfare or public way not less than 16 feet in width which has been dedicated.

**STREET, PRIVATE.** A right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**SUBDIVISION.** The division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.



**TEMPORARY BUILDING OR STRUCTURE.** A building or structure not intended for human occupancy that is capable of being moved without doing structural damage to said building. These buildings will be accessory buildings or structures to the main occupancy of the property, (i.e., open detached carports, mini-storage sheds (not to exceed 120 sq ft), dog houses, etc.) All temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.

**THEATER.** A building used primarily for the presentation of live stage productions, performances or motion pictures.

**USE.** The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

**USE, CHANGE OF.** The change within the classified use of a structure or premise.

**USE, NONCONFORMING.** A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use regulations.

**USE, PRINCIPAL.** A use that fulfills a primary function of a household, establishment, institution or other entity.

**USE, TEMPORARY.** A use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

**VARIANCE.** A deviation from the height, bulk, setback, parking or other dimensional requirements established by this code.

**WAREHOUSE, WHOLESALE OR STORAGE.** A building or premises in which goods, merchandise or equipment are stored for eventual distribution.

**YARD.** An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided in this code.

**YARD, FRONT.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

**YARD, REAR.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or ordinary high water line and a line parallel thereto.

**YARD, SIDE.** An open, unoccupied space on the same lot with the building and between the building line and the side lot line, or to the ordinary high water line.

### **ARTICLE III ZONING DISTRICTS AND MAP<sup>1</sup>**

#### **SECTION 1 ESTABLISHMENT OF ZONING DISTRICTS**

This ordinance of the City of Tullahoma is hereby divided into zoning districts, as follows:

##### **AGRICULTURAL**

General Agricultural District

##### **OPEN SPACE**

OS-1 Open Space Preservation District

##### **RESIDENTIAL**

R-1 Low Density Residential District

R-2 Medium Density Residential District

R-3 High Density Residential District

R-4 Mobile Home Park District

##### **COMMERCIAL**

C-1 Central Business District

C-2 General Business District

##### **INDUSTRIAL**

I-1 Restricted Manufacturing and Warehousing District

I-2 Heavy Industrial District

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<sup>1</sup>The zoning map is available in the office of the city recorder.

FLOODWAY  
F-1 Floodway District

AIRPORT  
AO-1 Airport Overlay District

HISTORIC OVERLAY  
HO-1 Historic Overlay District

## **SECTION 2 OFFICIAL ZONING MAP<sup>1</sup>**

The location and boundaries of the zoning districts established by the ordinance are bounded and defined as shown on the map entitled "Zoning Map of the City of Tullahoma." The said map is made part of this ordinance by reference, and upon its introduction and passage is an effective and operative part thereof. The said map adopted by this ordinance is not included herein, but is on file and available for public inspection in the office of the director of planning. The zoning map shall hereafter be kept and maintained by the Tullahoma Municipal-Regional Planning Commission in the office of the director of planning and shall be available for inspection and examination by members of the general public at all reasonable times as any other public record.

## **SECTION 3 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the center lines of such streets, highways, or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to be said boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the center lines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such water courses taken at the mean low water.
5. Boundaries shown as following or closely following the limits of the City of Tullahoma shall be construed as following such limits.

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<sup>1</sup>The zoning map is available in the city recorder's office.

6. Where the application of the aforesaid rules leaves a reasonable doubt as the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question unless otherwise determined by the board of zoning appeals.

7. Whenever any street, alley, or public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

8. The boundary of the F-1, Floodway District shall depict the 100-year flood elevation.

## **ARTICLE IV SPECIFIC DISTRICT REGULATIONS**

### **SECTION 1 GENERAL AGRICULTURAL DISTRICT**

#### **A. Allowable agricultural (A) zone uses shall be:**

Any agricultural use, including, but not limited to, dwellings, maintenance/storage buildings and other such uses necessary for the principal use.

#### **B. Uses Permitted upon review**

Accessory uses, including, but not limited to, amusement rides, office buildings, retail buildings and dwellings necessary for the maintenance of the principal use. Other uses as approved by the Planning Commission.

#### **C. General.**

The minimum area, setbacks, density and maximum height shall be as prescribed in Table TZ-1.

### **SECTION 2 OPEN SPACE PRESERVATION DISTRICT**

#### **A. Allowable Open Space (OS-1) zone uses shall be:**

OS-1. Any public park land or other similar recreational use, any preservation area where there should be no construction allowed and land would be set aside for natural habitat for animals, plants and natural features,

**B. Uses Permitted upon review**

Accessory uses, including, but not limited to, amusement rides, office buildings, retail buildings and dwellings necessary for the maintenance of the principal use. Other uses as approved by the Planning Commission.

**C. Prohibited Uses**

The following uses shall not be permitted: Dairying, the commercial raising and maintaining of poultry and other livestock; feed lots; the raising of fur bearing animals; fish and minnow hatcheries; livery or boarding stables; or dog kennels.

**D. General.**

The minimum area, setbacks, density and maximum height shall be as prescribed in Table TZ-1.

**SECTION 3  
RESIDENTIAL ZONES**

**A. Allowable residential (R) zone uses shall be:**

**R-1.** The following uses are permitted in an R, Division 1 zone:

Single-family dwellings, private garages, buildings accessory to the above permitted uses (including private garages and accessory living quarters), and temporary buildings.

**R-2.** The following uses are permitted in an R, Division 2 zone:

Any use permitted in R, Division 1 zones and two-family dwellings.

**R-3.** The following uses are permitted in an R, Division 3 zone:

All uses permitted in R, Division 2 zones, multiple-unit dwellings, such as apartment houses, boarding houses, condominiums and congregate residences.

**R-4.** The following uses are permitted in an R, MH-1 zone:

All uses permitted in R, Division 3 zones, multiple-unit dwellings, such as apartment houses, boarding houses, condominiums and congregate residences, and mobile home parks.

**B. Uses permitted upon review.**

1. Churches or similar places of worship, with accessory structures.
2. K-12 Schools, and colleges, public and private
3. Parks, playgrounds and ball fields.
4. Country Clubs with minimum 9 hole golf courses having a total land area of not less than 50 acres, but not miniature golf courses or driving ranges for commercial use.
5. Police & Fire Department Stations
6. Public and Governmental Services
7. Public Libraries
8. Public Parking Lots
9. Other uses as approved by the Planning Commission.

**C. Uses prohibited.**

Any use that is not permitted in Section A or B of the Residential Sections of this ordinance.

**D. General.**

The minimum area, setbacks, density and maximum height shall be as prescribed in Table TZ-1.

**SECTION 4  
COMMERCIAL ZONES**

**A. Allowable Commercial (C) zone uses shall be:**

**C-1.** The following uses are permitted in a C, Division 1 zone:

Minor automotive repair, automotive motor fuel dispensing facilities, automotive self-service motor fuel dispensing facilities, business or financial services, convenience and neighborhood commercial centers, family and group day care facilities, libraries, mortuary and funeral homes, public and governmental services, police and fire department stations, places of religious worship, public utility stations, and restaurants.

**C-2.** The following uses are permitted in a C, Division 2 zone:

Any uses permitted in C, Division 1 zones, and light commercial, group care facilities, physical fitness centers, religious, cultural and fraternal activities, rehabilitation centers, and schools and colleges operated for profit (including commercial, vocational and trade schools) and amusement centers (including bowling alleys, golf driving ranges, miniature golf courses, ice rinks, pool and

billiard halls, and similar recreational uses), automotive sales, building material supply sales (wholesale and retail), cultural institutions (such as museums and art galleries), community commercial centers (including wholesale and retail sales), health and medical institutions (such as hospitals), hotels and motels (excluding other residential occupancies), commercial printing and publishing, taverns and cocktail lounges, indoor theaters, and self-storage warehouses.

**B. Uses permitted upon review.**

The following uses are permitted on review:

- a. In a C, Division 1 zone residential use permitted, except in the story or basement abutting street grade.
- b. Accessory uses, necessary for the maintenance of the principal use.

**C. Uses prohibited.**

Adult-oriented establishments as defined in TCA 7-51-1401 shall be specifically prohibited in the C, Division 1 and C, Division 2 districts.  
(as amended by Ord. #1450, Sept. 2015)

**SECTION 5  
INDUSTRIAL ZONES**

**A. Allowable Industrial (I) zone uses shall be:**

**I-1.** The following uses are permitted in an I, Division 1 zone:

Any light-manufacturing or industrial use, such as warehouses, research or testing laboratories, product distribution centers, printing and publishing, woodworking shops, auto body shops, furniture assembly, dry cleaning plants, places of religious worship, public and governmental services, machine shops, and other similar uses.

**I-2.** The following uses are permitted in an I, Division 2 zone:

Any use permitted in the I-1 zone and heavy manufacturing and industrial facilities such as auto-dismantling yards, breweries, paper manufacturing, quarries, salt works, petroleum refining and other similar uses. Heavy manufacturing and industrial facilities include uses that would result in significant noise, dust, odor, possible release of hazardous materials, explosives, and other hazards and undesirable effects that must be isolated for reasons of public safety and/or quality of life.

**B. Uses permitted upon review.**

**I-1.** The following uses may be permitted in an I, Division 1 zone on review by the Planning Commission:

- a. all other similar uses which the Planning Commission declares to be special uses.

**I-2.** The following uses may be permitted in an I, Division 2 zone on review by the Planning Commission:

- a. Acid manufacture.
- b. Blast furnace or coke oven.
- c. Distillation of bones.
- d. Explosives, manufacturer or storage.
- e. Fat rendering, except as an incidental use.
- f. Fertilizer manufacture.
- g. Glue manufacture.
- h. Paper and pulp manufacture.
- i. Municipal or joint (municipal/county) owned and/or operated or private sanitary landfill facility, solid waste management facility, balefill and/or fill facilities, baling facility, separation facility, and related and accessory uses as regulated in Article
- j. All other similar uses which the Planning Commission declares to be special uses.
- k. Recycling facility (except Automobile Scrap Yard).
- l. Other uses as approved by the Planning Commission.

**C. Uses prohibited.**

Dwelling units, including hotels and motels; elementary and high schools, public or private; yards or lots for scrap or salvage operations or second-hand automobile parts; salvage yards or junk yards; and all uses or structures not of a nature specifically permitted herein.

**D. General.**

The minimum area, setbacks, density and maximum height shall be as prescribed in Table TZ-1.  
(as amended by Ord. #1410, Feb. 2011)



**SECTION 6  
FLOODWAY OVERLAY ZONE**

**A. Allowable Floodplain Overlay (FO-1) zone uses shall be:**

**Please see Tullahoma Municipal Floodplain Zoning Ordinance #1370  
located in Appendix “B”<sup>1</sup> of this Ordinance**

**SECTION 7  
AIRPORT OVERLAY ZONE**

**A. Allowable Airport Overlay (AO) zone uses shall be:**

The Airport Overlay District (AO-1) is an overlay district designed to: restrict or prevent hazards to air navigation; to minimize or prevent the loss of life, property damage, health and safety hazards, and government expenditures which result from air traffic accidents. More specifically, it is hereby found that an obstruction has the potential for endangering the lives and property of users of the Tullahoma Regional Airport, and property and occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Tullahoma Regional Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Tullahoma Regional Airport and the public investment therein.

Accordingly, it is hereby declared:

1. that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Tullahoma Regional Airport; and
2. that it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

1. Applicability -- The Airport Overlay District (AO-1) shall act as an overlay on the official zoning map and the underlying district shall apply except as herein modified. **EXCEPTION:** Property under the jurisdiction of the Tullahoma Municipal Airport Authority shall be zoned AO-1. The Tullahoma Airport

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<sup>1</sup>Appendix B is available in the city recorder's office.

Authority, through its Chairman or designee, shall make a recommendation to the Planning Commission regarding any proposed construction within the AO-1 zone. Any recommendation to disapprove must include written justification. Failure to provide a recommendation to the Planning Commission will be considered as a neutral (neither approve nor disapprove) recommendation.

2. General Requirements -- Within the Airport Overlay District (AO-1) the following requirements shall apply:

a. This District shall act as an overlay on the official zoning map. The regulations contained in this section shall apply to such land in addition to the regulations contained in the underlying zoning district for such land. Where there is a conflict between the provisions of this section and those of the underlying zoning district, the zone containing the more restrictive height regulations shall apply.

b. The provisions of this section shall apply to any new use and any substantial improvement to an existing structure, when such uses and structures are located in the airspace zones established by this section.

c. If a structure or tree is located in more than one of the zones established by this section, the zone containing the more restrictive regulations shall apply to such structure or tree.

**B. Airport Zones.**

In order to carry out the purposes of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Tullahoma Regional Airport. Such zones are shown on the Tullahoma Regional Airport Zoning Map, prepared and maintained by the director of planning, which shall be kept at the Tullahoma Municipal Building. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

The elevation of the Tullahoma Regional Airport is 1,082 feet for purposes of establishing height limitations within the zones described below.

1. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at the horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Utility Runway Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet

at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Runway Larger than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Runway Larger than Utility with a Visibility Minimum Greater than  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

5. Runway Larger than Utility with a Visibility Minimum as Low as  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

6. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7. Transition Zones - The transitional zones are the areas beneath the transitional surfaces.

8. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arc by drawing lines tangent to those arcs.

9. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

### **C. Airport Zone Height Limitations.**

Except as otherwise provided in this ordinance, no structure, tree or object of natural growth shall be erected, altered, allowed to grow, or maintained in any zone created by this ordinance to a height in excess of the height limit herein established for such zone. Such height limitations are computed from the established airport elevation (1,082 feet) and are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-Precision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway Larger than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
4. Runway Larger than Utility with a Visibility Minimum Greater than  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
5. Runway Larger than Utility with a Visibility Minimum as Low as  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
6. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
7. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,082 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
8. Horizontal Zone - Established at one hundred fifty (150) feet above the airport elevation or at a height of 1,232 feet above mean sea level.
9. Conical Zone - Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the

airport elevation and extending to a height of 350 feet above the airport elevation or a height of 1,432 feet above mean sea level.

**D. Land Use Safety Zoning.**

1. Use restrictions --

a. Subject at all times to the height restrictions set forth in Section C, no use shall be made of any land in the approach zone, the horizontal zone, the conical zone or transition zone, as defined in Section B which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, take off, or maneuvering of aircraft.

b. It should be made clear that the land lying within the various zones is not in itself zoned but portions of the airspace above the land as defined in the height limitations.

c. Nothing in this ordinance shall be construed as prohibiting the growth, construction or maintenance of any trees or structure to a height up to fifty (50) feet above the surface of the land.

2. Safety Zone Boundaries - In order to carry out the purpose of this ordinance, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Tullahoma Municipal Airport, Tullahoma, Tennessee, and furthermore to limit population and building density in the critical airport areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there is hereby created and established the following land use safety zones:

a. Approach Zones - All land in the approach zones of a runway, as defined in Section B., 1. through 6., of this ordinance.

b. Approach/Departure Zone -- Subject at all times to the height restrictions set forth in Section C, and to the general restrictions contained in Section D.2.a. area designated as Approach Zones shall be restricted to the following uses permitted in the following zoning classifications: A-1, Agriculture District, R-1, Low Density Residential District; Residential District, C-2, General Commercial District, C-1 Central Commercial District, C-2, General Commercial District, C-3 Neighborhood Commercial District, I-1, Restricted Manufacturing and Warehousing Industrial, I-2 heavy Industrial District, and I-3 Planned industrial Parks including those uses permitted in each said district as uses permitted with a variance, however, that in no event shall public or private educational facilities, hotels and motels, places of assembly including churches, auditoriums, theatres, and the like, or hospitals and other institutional occupancies (restrained or nonrestrained) shall be permitted. The

following uses are specifically prohibited in the Approach/Departure Zone: Duplexes, townhouses, apartment buildings, and mobile home parks.

**E. Airport Zoning Map.**

The several zones herein established are shown on the Tullahoma Municipal Airport, Tullahoma, Tennessee, Zoning Map. Such map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, date, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this ordinance.

**F. Non-Conforming Uses.**

The regulations prescribed in Section C and D of this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction of which was begun prior to the effective date of this ordinance, and is diligently prosecuted and completed within two (2) years thereof.

**G. Variance.**

Any persons desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this ordinance, may apply for a variance therefrom. The application for variance shall be accompanied by a determination from either the Division of Aeronautics or the Federal Aviation Administration as to the effect(s) of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variance shall be allowed where a literal application or enforcement of hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance.

**H. Permits.**

1. Site plan approval -- The application for any building permit for construction within the Airport Overlay District (AO-1) shall be submitted in accordance with The Zoning Ordinance for the City of Tullahoma.
2. Existing uses -- Before any existing use, structure, or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, within any zone established herein, a permit must be secured authorizing such replacement, change or repair. No such permit shall be issued that would allow the establishment or creation of an airport hazard or permit a non-conforming

use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this ordinance or than it was when the application for a permit is made. Except as indicated, all applications for a permit for replacement shall be granted.

3. Non-conforming uses abandoned or destroyed - Whenever the Director of Planning determines that a non-conforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted by the building official that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

### **I. Hazard Marking and Lighting.**

Any permit or variance granted under Section G or H may, if such action is deemed advisable to effectuate the purpose of this ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Tullahoma, Tennessee, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to fliers the presence of an airport hazard. Any markers and lights that are required to be installed on objects, structures, or trees deemed to be a hazard to flying shall be installed, maintained, and operated by the City of Tullahoma, Tennessee, if said hazard existed before the adoption of this ordinance. Any markers and lights that are required to be installed on objects, structures, or trees deemed to be a hazard to flying shall be installed, maintained and operated by the owners of the obstructing hazard if said hazard came into existence after the adoption of this ordinance.

### **J. Amendments.**

Amendments may be made to the Airport Overlay District with regard to boundaries and regulations contained herein. However, no amendment to the Airport Overlay District zone boundaries and regulations shall become effective unless it first be submitted to and reviewed by the Tennessee Office of Aeronautics or subsequent state agency charged with fostering civil aeronautics. The report submitted by the Tennessee Office of Aeronautics shall be submitted for consideration by the Tullahoma Municipal-Regional Planning Commission and Board of Mayor and Aldermen prior to amendment of the provisions of the Airport Overlay District or zone boundaries.

### **K. Airport Zoning Administrator.**

It shall be the duty of the director of planning, or his/her designee, to administer and enforce the regulations prescribed herein. Application for permits and variances shall be made to the director of planning, or his/her designee, upon a

form furnished by the planning & codes division. Permit applications shall be promptly considered and granted or denied by the director of planning. Variance applications shall be forthwith transmitted by the director of planning for action by the Tullahoma Board of Zoning Appeals hereinafter provided for in the Zoning Ordinance of the City of Tullahoma, Tennessee.

### **HO-1 Historical Overlay District.**

**(a) *General description and purposes.*** The historic district provisions are established in order that appropriate measures may be taken to ensure preservation of structures of historic and/or cultural value to the City of Tullahoma, Tennessee, pursuant to the authority contained in section 13-7-409, title 13, of the Tennessee Code Annotated. The general intent includes, among others, the following specific purposes:

- (1) To preserve and protect the historic and/or architectural value of buildings or other structures;
- (2) To protect the historic buildings or other structures from encroachment of surrounding uses which diminish or lessen their significance;
- (3) To regulate exterior design, arrangement, texture, and materials proposed to be used within the historic district to ensure compatibility;
- (4) To create an aesthetic appearance which complements the historic buildings or other structures;
- (5) To stabilize and improve property values;
- (6) To foster civic beauty;
- (7) To strengthen the local economy; and
- (8) To promote the use of historic districts for the education, pleasure, and welfare of the present and future citizens of Tullahoma.

**(b) *Creation of historic districts.*** Upon the creation of an historic district, the boundaries shall be shown on the zoning map or on special overlays thereto which are made a part of this section and may be viewed upon request at the office of the planning department. No structure shall be constructed, altered, repaired, moved, or demolished in any historic district unless the action has been reviewed with the requirements set forth in this section. The Historic Overlay District(s) shall be shown as an Overlay on the Official Zoning Map.

**(c) *Creation of a regional historic zoning commission.*** A regional historic zoning commission is hereby created for the City of Tullahoma, Tennessee, and it shall consist of five (5) members who shall have been bona fide residents of the area of jurisdiction of the city for not less than three (3) years immediately prior to appointment and who shall continue to be so eligible as long as they serve.

**(d) *Appointment to the historic zoning commission.*** The mayor of the City of Tullahoma shall appoint the representative of the Tullahoma Historical Society, the member of the city council, one member of the Municipal Planning



Commission, one member who is a licensed architect, and the other member shall be from the general public, all subject to confirmation by the city council.

**(e) *Term of appointment, removal, and vacancies.*** The members of the historic zoning commission shall serve for three-year terms, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one member, but not more than two (2) members shall expire each year. The term of the member nominated from the municipal planning commission shall be concurrent with the term on the planning commission, and the term of members from the local legislative bodies shall be concurrent with the terms on the local legislative body. All members shall serve without compensation and may be removed from membership by the appointing authority for just causes. Any member being so removed shall be provided, upon request, a public hearing on the removal decision before the city council. Vacancies on the historic zoning commission shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment of such member. Vacancies shall be filled within a period of sixty (60) days following their occurrence. The commission may adopt rules and regulations consistent with the provisions of this part.

**(f) *Election of officers, rules and meetings.*** The historic zoning commission shall elect from its members its own chairman and other officers deemed appropriate to carry out its purpose. The commission shall adopt rules of order for conducting meetings and establish regular meeting dates.

**(g) *Conflict of interest.*** Any member of the historic commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said commission shall be disqualified from participating in the discussion, decision, or proceedings of the historic zoning commission in connection therewith.

**(h) *Powers and duties of the historic zoning commission.*** The historic zoning commission may submit and it shall review applications for amendments to this section designating historic sites or buildings for special historic districts. A historic district or zone shall be defined as a geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one or more of the following criteria:

(1) That it is associated with an event which has made a significant contribution to local, state, or national history;

(2) That it includes structures associated with the lives of persons significant in local state or national history;

(3) That it contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;

(4) That it has yielded or may be likely to yield archaeological information important in history or prehistory;

(5) That it is listed in the National Register of Historic Places; (Acts 1982 (Adj. S.), ch. 814, 1.); or

(6) That it addresses the cost of acquisition by city and/or county governments, restoration, maintenance and repair, as applicable.

**(i) *Additional powers and duties of the historic zoning commission.***

(1) It shall be the duty of the historic zoning commission to make the following determination with respect to historic districts:

a. Appropriateness of altering or demolishing any building or structure within the historic district. The commission may require exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any recommendation to demolish a building or structure.

b. Appropriateness of exterior architectural features including signs and other exterior fixtures of any new buildings and structures to be constructed within the historic district.

c. Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the historic district.

d. The general exterior design, arrangement, texture, material, color of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the historic zoning commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings.

(2) It shall also be the responsibility of the commission to review all proposed nominations to the National Register of Historic Places for properties within the jurisdiction of the City of Tullahoma. A report of the commission's recommendations in this regard will then be forwarded to the Tennessee Historical Commission/State Historic Preservation Office.

(3) The commission shall also have the authority to conduct surveys of local historical and cultural resources and will maintain a list of districts and individual properties that have been designated historic pursuant to local legislation.

(4) The commission shall also have the authority to request that the Board of Mayor and Aldermen establish reasonable fees in regard to applications for certificates of appropriateness.

**(j) *Right of entry upon land.*** The commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as

required by this section, but there shall be no right of entry into any building without the consent of the owner.

**(k) *Liability of historic zoning commission members.*** Any historic zoning commission member acting within the powers granted by this section is relieved from all personal liability for any damage and shall be held harmless by the city and county governments. Any suit brought against any member of the commission shall be defended by a legal representative furnished by the City of Tullahoma, until the final termination of the procedure.

**(l) *Submittal of building permit to the historic zoning commission.*** The city building official shall not issue any permit for the construction, reconstruction, alteration, or extension of building or other structure within any historic zone district, nor shall any other agency issue a permit for the demolition or removal of any building or other structure within said district without first submitting the application for such permit together with all exterior plans, elevations, and other information necessary to determine the appropriateness of the features to be passed upon by the historic zoning commission and a recommendation sent to the Planning Commission. In the case of applications for demolition, no plans or other information shall be required to be submitted by the applicant.

**(m) *Meetings on application.*** The historic zoning commission shall meet within fifteen (15) days after notification by the city building official of the filing of an application relating to a historic district or a nomination to the National Register.

**(n) *Approval by the historic zoning commission.*** Upon recommendations of any application, the historic zoning commission shall forthwith transmit a report to the city building official stating the basis upon which such recommendation was made. Upon failure of the historical zoning commission to take final action within thirty (30) days after receipt of the application, the case shall be deemed a favorable recommendation, except when mutual agreement has been made for an extension of the time limit. When a recommendation has been issued, a copy thereof shall be transmitted to the city building official who shall, from time to time, inspect the construction or alteration of the exterior approved by such certificate, and report to the regional historic zoning commission any work not in accordance with the approved plans, before issuing a certificate of occupancy being issued.

**(o) *Disapproval by the historic zoning commission.*** In the case of a non-favorable recommendation of any application, the historic zoning commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such recommendation and a copy of the written statement of reasons therefore shall also be transmitted to the city building official and forwarded to the Planning Commission.

**(p) *Approval of removal or demolition.*** In the event an application for removal or demolition or redevelopment of a building or other structure within

an historic district is submitted or such demolition is required, the governmental agency receiving such request or initiating such action shall transmit a copy thereof to the historic zoning commission, and said commission shall have a period of one hundred twenty (120) days from the date the application was filed to acquire such property. Upon failure of the historic zoning commission to take final action within one hundred twenty (120) days after the filing of the application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.

**(q) *Appeals from decision of the historic zoning commission.*** Appeals from any decision of the historic zoning commission may be made to the municipal planning commission by the filing of an appropriate resolution. Nothing in this section shall be interpreted as giving the historic zoning commission any authority to consider, review, examine or control the use of property classified as an historic zoning district. Use shall be controlled solely by the zoning controlling such property prior to its classification as an historic district or as may be rezoned by subsequent amendments.

**(r) *Public comment.*** All meetings of the commission shall adhere to the Tennessee Open Meetings Act (TCA sec. 8-44-101, et seq.) Further, the commission will provide opportunity for public comment during the press of the commission's review of the National Register nominations as well as its consideration of local zoning applications.

**(s) *Further reporting.*** The commission shall send all annual reports of its activities to the Tennessee Historical Commission/State Historic Preservation Office.

**TABLE TZ-1**

ZONING DISTRICT	AREA REQUIREMENTS			YARD REQUIREMENTS			
	Minimum Lot Area	Minimum Lot Width at Setback	Max. Lot Coverage (%)	*Maximum Building Height	Front Yard Setback	Side Yard Setback	Rear Yard Setback
A-1, Agricultural	5 Acres	N/A	25	35 ft.	35 ft.	15 ft.	35 ft.
OS-1, Open Space, Preservation	2 Acres	200 ft.	5	35 ft.	50 ft.	20 ft.	50 ft.
R-1, Low Density Residential, W/O Sewer	20,000 sq. ft.	100 ft.	25	35 ft.	35 ft.	10 ft.	25 ft.
R-1, Low Density Residential, W/ Sewer	12,000 sq. ft.	75 ft.	30	35 ft.	35 ft.	10 ft.	25 ft.
R-2, Medium Density Residential	10,000 sq. ft. per dwelling	75 ft. Single	30	35 ft.	35 ft.	10 ft.	25 ft.
		125 ft. Multi	35	35 ft.	35 ft.	15 ft.	25 ft.
R-3, High Density Residential, Single	7,500 sq. ft.	50 ft.	25	35 ft.	35 ft.	10 ft.	25 ft.
R-3, High Density Residential, Double / Townhouse	7,500 per d.u.	125 ft.	30	50 ft.	35 ft.	15 ft.	25 ft.
R-3, High Density Residential, Multi-Family	3,000 per d.u.	150 ft.	35	50 ft.	50 ft.	20 ft.	35 ft.
R-4, Mobile Home Parks	2.5 Acres	25 ft.	75	15 ft.	35 ft.	10 ft.	25 ft.
	5,000 per d.u.						

C-1, Central Commercial	N/A	N/A	N/A	50 ft.	5 ft.	N/a	N/A
C-2, Central Commercial	N/A	N/A	80	35 ft.	35 ft.	10 ft.	10 ft.
I-1, Restricted Industrial	N/A	N/A	80	50 ft.	35 ft.	20 ft.	25 ft.
I-2, Heavy Industrial	N/A	N/A	75	50 ft.	75 ft.	50 ft.	50 ft.
F-1, Floodway	All areas within the 1000 year flood as shown on FIRM Maps						
AO-1, Airport Overlay	See Zoning Section 7 of this ordinance						
H-1, Historic Overlay	See Zoning Section 8 of this ordinance						

\*Accessory towers, satellite dishes and similar structures shall be permitted to exceed the maximum height when approved by the code official.

**ARTICLE V  
GENERAL PROVISIONS**

**SECTION 501  
OFF-STREET PARKING**

**501.1 General.** Off-street parking shall be provided in compliance with this chapter whenever any building is erected, altered, enlarged, converted or increased in size or capacity.

**501.2 Parking space requirements.** Parking spaces shall be in accordance with Sections 501.2.1 through 501.2.4.

**501.2.1 Required number.** The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 501.2.1, provided that any fractional parking space be computed as a whole space.

**TABLE 501.2.1**

<b>USE</b>	<b>NUMBER OF PARKING SPACES REQUIRED</b>
Assembly	1 per 300 gross square feet
Dwelling unit	2 per dwelling unit
Health club	1 per 100 gross square feet
Hotel/motel	1 per sleeping unit plus 1 per 500 square feet of common area
Industry	1 per 500 square feet
Medical office	1 per 200 gross square feet
Office	1 per 300 gross square feet
Restaurant	1 per 100 gross square feet
Retail	1 per 200 gross square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Warehouse	1 per 500 gross square feet

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

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

**501.2.4 Accessible spaces.** Accessible parking spaces and passenger loading zones shall be provided in accordance with the building code. Passenger loading zones shall be designed and constructed in accordance with ICC A117.1.

**501.3 Parking stall dimension.** Parking stall dimensions shall be in accordance with Sections 501.3.1 and 501.3.2.

**501.3.1 Width.** A minimum width of 9 feet shall be provided for each parking stall.

Exceptions:

1. Compact parking stalls shall be permitted to be 8 feet wide.
2. Parallel parking stalls shall be permitted to be 8 feet wide.
3. The width of a parking stall shall be increased 10 inches for obstructions located on either side of the stall within 14 feet of the access aisle.
4. Accessible parking spaces shall be designed in accordance with ICC A117.1.

**501.3.2 Length.** A minimum length of 20 feet shall be provided for each parking stall.

Exceptions:

1. Compact parking stalls shall be permitted to be 18 feet in length.
2. Parallel parking stalls shall be a minimum 22 feet in length.

**501.4 Design of parking facilities.** The design of parking facilities shall be in accordance with Sections 501.4.1 through 501.4.7.



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

1. Private driveways at least 9 feet.
2. Commercial driveways:
  - 2.1. Twelve feet for one-way enter/exit.
  - 2.2. Twenty-four feet for two-way enter/ exit.

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

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

**501.4.4 Compact-to-standard stall ratio.** The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 2.

**501.4.5 Surface.** All parking areas in any zoning district other than R- Division 1 and 2 must be of an asphaltic, concrete or other type dustless surface, capable of withstanding emergency traffic vehicles and all heavy utility vehicles.

**501.4.6 Striping.** All parking stalls shall be striped.

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

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

## **SECTION 502 FENCE HEIGHTS**

**502.1 General.** Fence and retaining wall heights in required yards shall not exceed those found in Table 902.1.

**TABLE 502.1**  
**MAXIMUM FENCE HEIGHTS**

<b>YARDS</b>	<b>HEIGHT</b>
Front	3.5'
Rear	6.0'
Side	Lot Side 6.0' Street Side 3.5'

### **SECTION 503**

#### **LOCATION OF ACCESSORY BUILDINGS**

**503.1 General.** Accessory buildings shall occupy the same lot as the main use or building.

**503.2 Separation from main building.** All accessory buildings shall be separated from the main building by 10 feet.

**503.3 Private garages.** An accessory building used as a private garage shall be permitted to be located in the rear yard or side yard provided that setbacks are maintained and the structures do not encroach into any recorded easements. The building shall be permitted to be located in the front yard of a sloping lot if the lot has more than a 10-foot (3048 mm) difference in elevation from midpoint of the front lot line to a point 50 feet (15 240 mm) away midway between the side lot lines.

**903.4 Storage buildings.** All accessory buildings used for storage or other similar use shall be permitted to be located in any portion of the rear yard or side yard. No storage building shall be located in the front yard.

### **SECTION 504**

#### **ALLOWABLE PROJECTIONS INTO SETBACKS**

**504.1 General.** Eaves, cornices or other similar architectural features shall be permitted to project into a required yard no more than 12 inches. Chimneys shall be permitted to project no more than 2 feet, provided the width of any side yard is not reduced to less than 30 inches.

**504.2 Front yards.** Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet into the required front yard, provided such porch does not extend above the first level and is no more than 6 feet above grade at any point.

**504.3 Rear yards.** Windows shall be permitted to project into a required rear yard no more than 6 inches.

## **SECTION 505 LANDSCAPING REQUIREMENTS**

**505.1 General.** Landscaping is required for all new buildings and additions over 500 square feet as defined in the Tullahoma Landscaping Ordinance located in the appendices of the Tullahoma Subdivision Regulations. Said landscaping shall be completed within prior to the date of occupancy of the building.

**505.2 Front yards.** Front yards required by this code shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**505.3 Street-side side yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**505.4 Maintenance.** All live landscaping required by Tullahoma Landscaping Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

## **SECTION 506 LOADING SPACES**

**506.1 General.** Loading spaces shall be provided on the same lot for every building in the C or I zones.

- Exceptions:
1. No loading space is required if prevented by an existing lawful building.
  2. If waived by the Planning Commission as not necessary for the business type.

**506.2 Size.** Each loading space shall have a clear height of 14 feet and shall be directly accessible through a usable door not less than 3 feet in width and 6 feet,

8 inches high. The minimum area of a loading space shall be 400 square feet and the minimum dimensions shall be 20 feet long and 10 feet deep.

## **SECTION 507 PASSAGEWAYS**

**507.1 Residential entrances.** There shall be a passageway leading from the public way to the exterior entrance of each dwelling unit in every residential building of not less than 10 feet in width. The passageway shall be increased by 2 feet for each story over two.

**507.2 Separation between buildings.** There shall be at least 10 feet of clear space between every main building and accessory building on a lot. There shall be at least 20 feet of clear space between every residential building and another main building on the same lot.

**507.3 Location of passageways.** Passageways shall be permitted to be located in that space set aside for required yards. Passageways shall be open and unobstructed to the sky and shall be permitted to have such projections as allowed for yards, provided the users of said passageway have a clear walkway to the public way. Any space between buildings or passageways that has less width than that prescribed herein shall not be further reduced.

## **SECTION 508 APPROVAL FOR AND AVAILABILITY OF ESSENTIAL SERVICES**

**508.1 General.** All projects that require the additional use of new facilities or essential services, such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting and similar services, shall obtain such approval as required by the agency providing such service prior to project approval.

Nonavailability of essential services shall be permitted to be grounds for denying permits for additional development until such services are available. The jurisdiction is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the jurisdiction agrees otherwise. All service extensions shall be designed and installed in full compliance with the jurisdiction's standards for such service, and shall be subject to review, permit and inspection as required by other policies or ordinances of the jurisdiction.

## **ARTICLE VI SPECIAL REGULATIONS**

### **SECTION 601 HOME OCCUPATIONS**

**601.1 General.** Home occupations shall be permitted in all zones, provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises.

#### **601.2 Conditions.**

1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
4. There shall be no exterior display or storage of goods on said premises.
5. Home occupations involving beauty shops or barber shops shall require a conditional-use permit.
6. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
7. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the parking requirements in Chapter 5.

### **SECTION 602 ADULT USES**

**602.1 General.** A conditional-use permit shall be obtained for all adult-use businesses.

**602.2 Provisions.**

1. No adult-use business shall be located within 1,000 feet of a park, school, day care center, library or religious or cultural activity.
2. No adult-use business shall be located within 500 feet of any other adult-use business or any agricultural or residential zone boundary.
3. Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.
4. Said business shall be located in an I-2 zone and shall not be permitted as a home occupation.

**ARTICLE VII  
SIGN REGULATIONS**

**SECTION 701  
PURPOSE**

**701.1 Purpose.** The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

**701.2 Sign Ordinance.** The City of Tullahoma Sign Ordinance is hereby adopted by reference. (See Sign Ordinance as Appendix "A"<sup>1</sup> to this Ordinance.)

**ARTICLE VIII  
NONCONFORMING STRUCTURES AND USES**

**SECTION 801  
GENERAL**

**801.1 Continuance.** Except as otherwise required by law, a structure or use legally established prior to the adoption date of this code may be maintained unchanged. In other than criminal proceedings, the owner, occupant or user shall have the burden to show that the structure, lot or use was lawfully established.

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<sup>1</sup>Appendix A is available in the city recorder's office.

**SECTION 802  
DISCONTINUANCE**

**802.1 Vacancy.** Any lot or structure, or portion thereof, occupied by a nonconforming use, which is or hereafter becomes vacant and remains unoccupied by a nonconforming use for a period of 6 months shall not thereafter be occupied, except by a use that conforms to this code.

**802.2 Damage.** If any nonconforming structure or use is, by any cause, damaged to the extent of 50 percent of its value as determined by the code official, it shall not thereafter be reconstructed as such.

**SECTION 803  
ENLARGEMENTS AND MODIFICATIONS**

**803.1 Maintenance and repair.** Maintenance, repairs and structural alterations shall be permitted to be made to nonconforming structures or to a building housing a nonconforming use with valid permits.

**803.2 Changes of nonconforming use.** A change of use of a nonconforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.

**803.3 Additions.** All additions to nonconforming structures and parking areas shall conform to the requirements of this code. Additions to structures housing nonconforming uses that increase the area of a nonconforming use shall not be made.

**ARTICLE IX  
CONDITIONAL USES**

**SECTION 901  
GENERAL**

**901.1 Conditional-use permit.** A conditional-use permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a zone, but shall not be allowed under the general conditions of the zone as stated in this code.

## **SECTION 902 APPLICATIONS**

**902.1 Submittal.** All conditional-use permit applications shall be submitted to the Planning Director as provided in this code. All applications shall be accompanied by maps, drawings, statements or other documents requested to make a sound decision. An appropriate fee shall be collected at the time of submittal as determined by the jurisdiction.

## **SECTION 903 PUBLIC HEARING**

**1303.1 Hearing and action.** Prior to the approval, amending or denial of a conditional-use permit, a public hearing shall be held in accordance with the provisions of the state statute. Upon the completion of said public hearing, the commission shall render a decision within a time limit as required by law.

## **SECTION 904 DETERMINATION**

**904.1 Authorization.** The Planning Commission shall have the authority to impose conditions and safeguards as deemed necessary to protect and enhance the health, safety and welfare of the surrounding area. The authorization of a conditional-use permit shall not be made unless the evidence presented is such to establish:

1. That such use will not, under the specific circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area and that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the surrounding area.
2. That such use will comply with the regulations and conditions specified in this code for such use.
3. The planning commission shall itemize, describe or justify, then have recorded and filed in writing, the conditions imposed on the use.

## **SECTION 905 EXPIRATION AND REVOCATION**

**905.1 General.** A conditional-use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless



authorized by the planning commission, hearing examiner or legislative body on appeal. A conditional-use permit shall be revoked when the applicant fails to comply with conditions imposed by the hearing examiner.

## **SECTION 906 AMENDMENTS**

**906.1 General.** An amendment to an approved conditional-use permit shall be submitted to the Planning Director accompanied by supporting information. The planning commission shall review the amendment and shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary.

## **SECTION 907 CONDITIONAL USE REVIEW CRITERIA**

**907.1 General.** A request for a conditional use shall be permitted to be approved, approved with conditions or denied. Each request for a conditional use approval shall be consistent with the criteria listed below:

1. The request is consistent with all applicable provisions of the comprehensive plan.
2. The request shall not adversely affect adjacent properties.
3. The request is compatible with the existing or allowable uses of adjacent properties.
4. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provision for maintenance of the use and associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.
7. The request will not create undue traffic congestion.
8. The request will not adversely affect the public health, safety or welfare.
9. The request conforms to all applicable provisions of this code.

## **ARTICLE X PLANNED UNIT DEVELOPMENT**

### **SECTION 1001 GENERAL**

**1001.1 Approval.** Planned unit developments (PUDs) shall be allowed by planning commission approval in any zoning district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

**1001.2 Intent.** These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

### **SECTION 1002 CONDITIONS**

**1002.1 Area.** No planned unit development shall have an area less than that approved by the planning commission as adequate for the proposed development.

**1002.2 Uses.** A planned unit development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use in a planned

unit development, which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

**1002.3 Ownership.** The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

**1002.4 Design.** The planning commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

**1002.4.1 Density.** Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.

**1002.4.2 Arrangement.** Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

**1002.4.3 Specific regulations.** Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

**1002.5 Open spaces.** Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of the land as a public park or parkway system; or
2. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remain perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

**1002.6 Landscaping.** Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall also be submitted to the planning commission with the application.

**1002.7 Signs.** The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

**1002.8 Desirability.** The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general well being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

### **SECTION 1003 PLANNING COMMISSION DETERMINATION**

**1003.1 Considerations.** In carrying out the intent of this section, the planning commission shall consider the following principles:

1. It is the intent of this section that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.
2. It is not the intent of this section that control of the design of a PUD by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this section.
3. The planning commission shall be authorized to approve or disapprove an application for a PUD.

In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a PUD by the planning commission shall be permitted to be appealed to the legislative body of the jurisdiction.

### **SECTION 1004 REQUIRED CONTRIBUTIONS**

**1004.1 General.** The planning commission, subject to acceptance by the Board of Mayor and Aldermen, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication of land for public park purposes.
2. Dedication of land for public school purposes.
3. Dedication of land for public road right-of-way purposes.
4. Construction of, or addition to, roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.
5. Installation of required traffic safety devices.
6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

**SECTION 1005  
PLANNING COMMISSION ACTION**

**1005.1 Approval.** The planning commission shall have the authority to require that the following conditions for a planned unit development (among others it deems appropriate) be met by the applicant:

1. That the proponents intend to start construction within 1 year of either the approval of the project or of any necessary zoning district change, and intend to complete said construction, or approved stages thereof, within 4 years from the date construction begins.
2. That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.

**1005.2 Limitations on application.**

1. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the planning commission and in compliance with any conditions attached by the jurisdiction as to its approval.
2. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures here outlined for first approval.
3. The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

## **ARTICLE XI VARIANCES**

### **SECTION 1101 GENERAL**

**1101.1 Approval.** The City of Tullahoma Board of Zoning Appeals shall have the power and authority to grant variances from the terms of this ordinance according to the procedure and under the restrictions set out in this section. The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property as the zoning ordinance intended.

**1101.2 Application.** After written denial of a building permit, or a decision made by the building official, a property owner may make application for a variance, using forms available in the building and planning department.

**1101.3 Public Hearing.** Upon receipt of an application and fee, the board shall hold a public hearing, having first given ten (10) days notice. Such notice of the time and place of such hearing shall be published in a newspaper of general circulation to the City of Tullahoma. The board of zoning appeals shall consider and decide all applications for variances within thirty (30) days of such public hearing and in accordance with the standards provided herein.

**1101.3 Standards for Variances.** In granting a variance, the board of zoning appeals shall ascertain that the following criteria are met:

1. Variances shall be granted only where special conditions or circumstances (such as exceptional narrowness, siting, or topography) fully described in the findings of the board, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land.

4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

5. The granting of any variance is in harmony with the general purposes and intent of this ordinance and will not be injurious to the neighborhood, detrimental to the public health, safety and welfare, or in conflict with the comprehensive development plan.

**1101.3 Requirements for the Granting of a Variance.** Before the board of zoning appeals shall have the authority to grant a variance, the person requesting the variance has the burden of showing:

1. That the granting of the permit will not be contrary to the public interest.
2. That the literal enforcement of the ordinance will result in unnecessary hardship.
3. That by granting the permit contrary to the provisions of the ordinance the spirit of the ordinance will be observed.
4. That by granting the permit, substantial justice will be done.

## **ARTICLE XII BUILDING PERMITS**

### **SECTION 1201 GENERAL**

**1201.1 General Requirements.** A building permit shall be obtained from the Building Official of the City of Tullahoma, Tennessee, and shall be required for the following:

1. A building permit shall be required in all instances when any new, free standing building of any type whatsoever is constructed on property within the City of Tullahoma, Tennessee. Excluded from the provisions hereof are pre-fabricated buildings which are not on a permanent slab or foundation and less than one hundred (100) square feet in gross building area.
2. A building permit shall be required in any case when construction activities require plumbing and/or electrical installations.
3. A building permit shall be required in all instances when an existing building or other structure is erected, located, moved, added to or altered in any manner

whatsoever if the cost of said improvements and/or activities exceeds five hundred dollars (\$500.00).

4. No building permit shall be issued except in conformity with the provisions of the Code of Ordinances of the City of Tullahoma, Tennessee, and the Zoning Ordinance of the City of Tullahoma, Tennessee.

5. Within an area subject to flood, the following additional information is to be included as part of an application for a building permit:

- a. Copies of all federal and state permits required for the construction of the development shown on the plans.
- b. Topographic information showing existing ground elevations, proposed ground elevations, lowest floor elevations in relation to the mean sea level certified by a registered professional engineer, architect or surveyor.
- c. Plans showing the method of elevating the proposed structures, including details of proposed fills, and erosion protection measures. When required by the building official, these plans shall be prepared by a registered professional engineer or architect.

**1201.2 Specific Requirements.** The code administrator shall require at a minimum, the following specific information to be included as part of an application for a building permit:

1. Residential permits.

a. A detailed site plan indicating the location of present and proposed buildings, driveways, and utilities (e.g., water, sewer, power, and gas) and any other physical features affecting the development of the property.

b. Architectural and mechanical drawings depicting foundation, floor, wall, roofing, and mechanical plans.

c. All plans shall be drawn to scale and where more than one sheet is used shall be numbered sequentially.

2. Commercial, industrial, and other permits.

a. A detailed site plan as required in the City of Tullahoma Subdivision Regulations.

b. Architectural and mechanical, and electrical drawings depicting foundation, floor, wall, roofing, and mechanical plans.

c. All plans shall be drawn to scale and where more than one sheet is used shall be numbered sequentially.



**SECTION 1202  
CERTIFICATE OF OCCUPANCY**

**1202.1 Certificate of Occupancy.** No new building shall be occupied or given a permanent utility connection (e.g., water, sewer, electrical, gas) until after the building official has conducted a final inspection and issued a certificate of occupancy.

**ARTICLE XIII  
AMENDMENTS**

**SECTION 1301  
AMENDMENTS**

**1301.1 General.** The regulations, restrictions, boundaries and options set forth in this ordinance may, upon proper application by the property owner or his designated representative or by an appropriate governmental agency, or the board of mayor and aldermen, be amended, supplemented, revised or repealed from time to time as conditions warrant, as herein set forth.

**1301.2 Application.** Amendments initiated by the property owner or by his designated representative or by an appropriate governmental agency or board of mayor and aldermen shall be initiated by the filing of an application with the director of planning. Applications shall be available in the office of the director of planning during normal business hours.

**1301.3 Public Hearing.** Upon receipt of such application, the director of planning shall schedule a public hearing for the planning commission to consider and make recommendations on all such proposed amendments, taking into account the testimony at the hearing, a site inspection of the property in question, recommendations from the director of planning or his designee or other official governmental agencies, and the standards provided for amendments.

1. Prior to holding such public hearing, the planning commission shall have first given ten (10) days notice of such hearing by one publication in a newspaper of general circulation.

2. The Planning commission shall notify all property owners whose property would be rezoned and who were not a party to the request for rezoning. Such notification shall be by certified mail to the last known address of the property owner ten (10) days prior to the public hearing. Notification by mail shall not be required in cases of general amendments to the zoning map or amendments to an entire zoning district.

3. The director of planning or his designee shall post a real estate type sign on the subject property or area proposed for rezoning. The sign shall indicate the date, time, and location of the public hearing and the nature of the request for rezoning. The sign shall be posted at least five (5) days prior to the public hearing.

**1301.4 Reports to the Board of Mayor and Aldermen.** The planning commission shall report to the board of mayor and aldermen on all such applications approved by the commission. Amendments to zoning ordinances shall be scheduled for public hearing by the board of mayor and aldermen at the next regularly scheduled meeting of the board. Notice of the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the City of Tullahoma at least fifteen (15) days prior to the hearing. No change in or departure from the text or maps as certified by the planning commission shall be made, unless such change or departure be first submitted to the planning commission and approved by it, or if disapproved, receive the favorable vote of a majority of the entire membership of the board of mayor and aldermen. The director of planning or his designee shall post a real estate-type sign on the subject property or area in a conspicuous location to public view. The sign shall indicate the date, time, and location of the public hearing and the nature of the request for rezoning. The sign shall be posted at least five (5) days prior to the public hearing.

**1301.5 Time Limit.** All amendments initiated by application filed with the director of planning shall be finally acted upon by the board of mayor and aldermen within one hundred twenty (120) days following the submission of the application and failure of the board of mayor and aldermen finally to act upon any proposal within the said one hundred twenty (120) day period shall be in all respects equivalent to rejection thereof.

**1301.6 Standards for Amendments.** A proposed amendment shall be considered on its own merits using the following criteria as a guide:

1. Amendments to official zoning map. The following conditions shall be met for all amendments:

a. The proposed amendment shall be necessary because of substantially changed or changing conditions in the area and districts affected, or in the city generally.

b. The proposed amendment shall be consistent with the intent and purposes of this ordinance.

c. The proposed amendment shall not adversely affect any other part of the city nor shall any direct or indirect adverse effects result from such amendment.

2. Errors or oversights as may be found in the ordinance as originally adopted shall be corrected under the normal amendment procedure.

## **ARTICLE XIV PENALTIES**

**1401.1 General.** It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure, or to use any land in violation of any regulation in this ordinance. Any person, firm, association, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of fifty dollars (\$50.00) together with the cost of the action; and every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctive process at the suit of the city or the owner(s) of real estate within the district affected by the regulation of this ordinance.

## **ARTICLE XV VALIDITY**

**1501.1 General.** No invalidity of any part of this ordinance shall affect the validity of any remaining part, it being declared that all such remaining parts would have been passed irrespective of the validity or invalidity of any part found to be invalid.

## **ARTICLE XVI REPEAL OF ORDINANCE NO. 961**

Ord. #961, of the City of Tullahoma, entitled "City of Tullahoma, Tennessee, Zoning Ordinance," and all amendments thereto, are herein repealed.

APPENDIX "B"

STORMWATER MANAGEMENT ORDINANCE

This Appendix B was replaced by Ord. #1433, Sept. 2013 and can be found in Title 18, Chapter 2 of this municipal code.

APPENDIX "C"

COMPREHENSIVE SCHEDULE OF FEES AND CHARGES

This Appendix C was replaced by Ord. #1156, Oct. 1996, and amended by Ord. #1175, June 1997, and can be found in Title 20, Chapter 10 of this municipal code.

Change 8, July 25, 2016

APPD-1

APPENDIX D  
COMPREHENSIVE DEVELOPMENT PLAN  
(Replaced by Ord. #1417, August 22, 2011 and is on file in the recorder's office)

APPENDIX E

ORDINANCE NO. 1242

AN ORDINANCE TO RENEW THE FRANCHISE HERETOFORE GRANTED TO RIFKIN/TENNESSEE, LTD., TO BUILD, CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF TULLAHOMA, TENNESSEE, AS SET FORTH IN ORDINANCE NO. 1044 OF THE CITY OF TULLAHOMA, TENNESSEE, PASSED ON THIRD READING ON JANUARY 19, 1992, PURSUANT TO THE RENEWAL PROVISIONS SET FORTH IN SECTION 15, THEREOF, AS SAID FRANCHISE WAS AMENDED PURSUANT TO THE PROVISIONS OF ORDINANCE NO. 1091 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, ON NOVEMBER 8, 1993, AND AS FURTHER AMENDED BY ORDINANCE NO. 1092 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, ON NOVEMBER 8, 1993, SAID FRANCHISE HAVING THEREAFTER BEEN TRANSFERRED FROM RIFKIN/TENNESSEE, LTD., TO CHARTER COMMUNICATIONS, INC., BY ORDINANCE NO. 1216, ENACTED ON JULY 26, 1999.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

WHEREAS, by the provisions of Ordinance No. 1044, enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on January 13, 1992, a franchise was granted to Rifkin/Tennessee, LTD., to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and setting forth conditions accompanying the granting thereof, and to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, as amended by Ordinance No. 1091 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, to implement the Customer Service Obligation Standards of the Cable Television Consumer Protection and Competition Act of 1992, to provide for a higher level of customer service by the cable operator than then currently provided in the original franchise agreement, and as further amended by Ordinance No. 1092 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, which Ordinance created a Title 6, "Finance and Taxation," Chapter 1 "In General," entitled "A SECTION PROVIDING REGULATIONS GOVERNING RATES TO BE CHARGED FOR BASIC CABLE TELEVISION SERVICE AND EQUIPMENT," which section is entitled "Regulation of Basic Cable Television Service and Equipment," which franchise was by Ordinance No. 1216, transferred from Rifkin/Tennessee, LTD., to Charter Communications, Inc., enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on July 26, 1999.

WHEREAS, pursuant to Ordinance No. 1044 aforementioned, in Section 15 thereof, at the expiration of the initial term of said franchise which was for ten years, beginning February 1, 1992, and ending January 31, 2002, the franchise was granted the right to renew said franchise for two five-year renewals;

WHEREAS, the current franchisee is desirous of exercising its rights to so renew the franchise for the first five-year renewal period, and the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, is pleased to grant same renewal;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that the franchise heretofore granted above in Ordinance No. 1044, as amended by Ord. #No. 1092, and Ordinance No. 1093, and assigned by the original franchisee to the current franchisee is hereby renewed for a term of five years commencing February 1, 2002, and ending January 31, 2007.

BE IT FURTHER ORDAINED that this Ordinance shall take effect and be in full force and effect from and after its passage, the public welfare requiring it.

CITY OF TULLAHOMA, TENNESSEE

BY \_\_\_\_\_s/\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
s/Patricia H. Williams  
CITY RECORDER

PASSED ON FIRST READING: \_\_\_\_\_ 1-28-02 \_\_\_\_\_

PASSED ON SECOND READING: \_\_\_\_\_ 2-11-02 \_\_\_\_\_

PASSED ON THIRD READING: \_\_\_\_\_ 3-12-02 \_\_\_\_\_



ORDINANCE NO. 1216

AN ORDINANCE GRANTING CONSENT BY THE CITY OF TULLAHOMA, TENNESSEE, TO A TRANSFER BY RIFKIN/TENNESSEE, LTD, A TENNESSEE LIMITED PARTNERSHIP, OF A FRANCHISE HERETOFORE GRANTED TO RIFKIN BY ORDINANCE NO. 1044, AS AMENDED, PURSUANT TO PROVISIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

SECTION ONE: By the provisions of Ordinance No. 1044, the City of Tullahoma, Tennessee, by and through its board of mayor and aldermen granted a franchise to Rifkin/Tennessee, LTD, a Tennessee Limited Partnership ("Rifkin"), to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and therein in Section 3 (c) thereof, provided that the franchise award shall not be assigned, etc., without the prior consent of the City of Tullahoma expressed by ordinance, and Rifkin has now sought said consent from city, which consent city is pleased to grant, pursuant to the terms hereof.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that the City of Tullahoma, Tennessee does hereby grant its consent to the transfer by Rifkin (now known as Rifkin Acquisition Partners, L.L.L.P., a Colorado registered Limited Liability Limited Partnership which purportedly owns and operates this system established pursuant to the provisions of Ordinance Number 1044) pursuant to that CONSENT OR APPROVAL TO TRANSFER CONTROL OF CATV FRANCHISE (Consent) executed by the City of Tullahoma, Tennessee, on the 12<sup>th</sup> day of July, 1999.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that said consent is hereby granted subject to the provisions that the transferee contemplated thereby shall assume and be liable for any and all obligations and/or liabilities of the transferor to the City of Tullahoma, Tennessee, pursuant to the provisions of the franchise, and/or pursuant to law, without releasing transferor from its obligations and/or liabilities to city.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of



ORDINANCE NO. 1091

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE BY ADDING CERTAIN PROVISIONS THERETO IN APPENDIX "E" OF THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE, CREATED BY ORDINANCE NO. 1044 ENACTED DECEMBER 13, 1992, WHICH IS ENTITLED "THE TERMS AND CONDITIONS OF THE CABLE TELEVISION FRANCHISE", AND AN ORDINANCE TO AMEND THE CURRENT CATV FRANCHISE AND TO IMPLEMENT THE CUSTOMER SERVICE OBLIGATION STANDARDS OF THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 ("CABLE ACT OF 1992") PROVIDING FOR A HIGHER LEVEL OF CUSTOMER SERVICE BY THE CABLE OPERATOR THAN CURRENTLY PROVIDED IN THE FRANCHISE AGREEMENT BETWEEN THE CITY OF TULLAHOMA, TENNESSEE AND RIFKIN/TENNESSEE, LTD. (THE CABLE OPERATOR).

SECTION ONE: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, which provides as follows:

See Exhibit "A" hereto for the text of the amendment.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of Ordinances of the City of Tullahoma, in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that if any section, subsection, paragraph, sentence, item or clause of this ordinance shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this ordinance, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of this ordinance shall be treated as severable.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that this ordinance shall take effect and be in full force and effect from and after its passage and from and after its caption being published one time in a newspaper of general circulation in Coffee County, Tennessee, and 90 (ninety)



EXHIBIT "A"

WHEREAS, the CITY of Tullahoma, Tennessee determines that the level of service provided to the residents of the city would be greatly enhanced through the adoption of customer service standards provided by the Cable Act of 1992; and

WHEREAS, the CITY of Tullahoma, Tennessee hereby notifies the cable operator RIFKIN pursuant to the Cable Act of 1992 that it intends to adopt the customer service standards; which are as follows:

Section 1. In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 76.309 subpart H, the following standards are incorporated into the existing CATV franchise:

Cable system office hours and telephone availability:

- (1) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
  - (a) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
  - (b) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- (2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
- (3) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

- (4) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
- (5) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

- (1) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
- (2) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
- (3) The "appointment window" alternatives for installations, service calls, and other installations activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
- (4) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
- (5) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

Communications between cable operators and cable subscribers

- (1) Notification to subscribers—

- (a) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
    - (1) Products and services offered;
    - (2) Prices and options for programming services and conditions of subscription to programming and other services;
    - (3) Installation and service maintenance policies;
    - (4) Instructions on how to use the cable service;
    - (5) Channel positions programming carried on the system; and,
    - (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
  - (b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.
- (2) Billing–
- (a) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
  - (b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.
- (3) Refunds – Refund checks will be issued promptly, but no later than either –
- (a) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

- (b) The return of the equipment supplied by the cable operator if service is terminated.
- (4) Credits – Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

Definitions

- (1) "Normal business hours." The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
- (2) "Normal operating conditions." The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- (3) "Service interruption." The term "service interruption" means the loss of picture or sound on one or more cable channels.



Ordinance No. 1044

Cable Television Franchise

AN ORDINANCE granting a franchise to Rifkin/Tennessee, Ltd., a Tennessee Limited Partnership, to build, construct, operate and maintain a cable television system in the City of Tullahoma, Tennessee and setting forth conditions accompanying the granting of this franchise, and an ordinance to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee.

Be it ordained by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, as follows:

Section 1 – Title. This Ordinance shall be known and may be cited as the terms and conditions of the cable television franchise.

Section 2 – Definitions. For the purpose of this ordinance, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "shall" is always mandatory. The captions supplied herein for each section are for convenience only. Said captions have no force of law, are not part of the section and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

(a) "City" or "Grantor" is the City of Tullahoma, Tennessee, a municipal corporation under the laws of the State of Tennessee, or any successor to the legislative powers of the present city.

(b) "Grantee" or "Company" is Rifkin/Tennessee, Ltd., a limited partnership organized, existing under the laws of the State of Tennessee, and doing business as Tullahoma Cablevision, it is the grantee of rights under this franchise.

(c) "Franchise" is the rights granted to any person by the City of Tullahoma under the terms of this and any agreement entered into by and between the City of Tullahoma, Tennessee, and such person according to the terms of this code.

(d) "Governing body" is the governing legislative body of the City of Tullahoma, Tennessee.

(e) "Person" is any person, firm partnership, association, corporation, company or organization of any kind.

(f) "Cable system" or "Cable television system" means a system of coaxial cables or other electrical conductors, including optical transmission media, and equipment used or to be used primarily to receive or transmit television or radio signals originated directly or indirectly or taken off the air and to transmit them to the subscribers for a fee.

(g) "CATV system" shall mean cable system.

(h) "Corporate limits" shall include all areas lying within the limits of the City of Tullahoma, Tennessee, as from time to time changed by annexation or other legal methods.

(i) "Federal Communications Commission" or "FCC" is the Federal Commission or Agency created pursuant to the Communications Act of 1934 or its successor agency.

(j) "Channels" shall mean a group of frequencies in the electromagnetic spectrum capable of carrying an audio-data or an audio-video television signal. Each channel is a block of frequencies containing a six MHz band width.

(k) "Basic cable service" means any service tier which includes the re-transmission of local television broadcast signals

(l) "Gross annual receipts" shall mean all revenue derived directly by the grantee and its subsidiaries, from or in connection with the operation of the cable TV system pursuant to this ordinance; including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, installation and reconnection fees, and converter and other equipment rentals; provided, however, that this shall not include any taxes on services furnished by the grantee herein, imposed directly upon any subscriber or user by the state, city or other governmental entity and collected by the grantee on behalf of said governmental unit.

(m) "City of Tullahoma" means the present municipal corporation of City of Tullahoma, together with any future annexation made pursuant to law. Also referred to as "City."

(n) "Ordinance" or "Franchise ordinance" means this ordinance which grants a franchise and defines the specific rights and obligations of each party pursuant to the general authority, powers and restrictions of this ordinance.

(o) "Streets" shall mean the surface of and all rights-of-way and the space above and below any public street, road, highway, bridge, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive, waterway, dock, wharf, pier, or easement now or hereafter held by the city for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the city which shall, within their proper use and meaning entitle the franchisee to the use thereof for the purposes of installing or transmitting cable television system transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

(p) "Year" means the remaining portion of any calendar year in which a franchise is granted. Thereafter, "Year" means a full calendar year.

Section 3 - Grant of authority.

(a) The city warrants it has a right to issue a franchise and the grantee, by acceptance, acknowledges and accepts the right of the city to issue the same.

(b) The city hereby grants to grantee, subject to the right of amendment as hereinafter provided, the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the city of a cable system for the interception, retransmission, sale, and distribution of television signals, radio, data, or other electronic signals as may be deemed appropriate by the grantee, upon the limitations, terms, and conditions in this ordinance contained, as the same may be from time to time amended.

(c) This franchise award shall not be sublet, assigned or leased, nor shall any of the rights or privileges therein granted or authorized be transferred or assigned, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, title, interest or property therein pass to or vest in any person except the grantee, either by act of the grantee or by operation of law, without the prior consent of the City of Tullahoma expressed by ordinance, which consent will not be unreasonably withheld. The board of mayor and aldermen shall have forty-five (45) days to approve or disapprove any such assignment. If no action is taken by the board within 45 days, approval is automatically granted.

(d) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive when granted by the City of Tullahoma.

Section 4 – Compliance with applicable laws

(a) Unless otherwise prohibited by state and federal laws, or where jurisdiction has been or shall be conferred upon a state or federal commission, board or body, the City of Tullahoma reserves a right by ordinance or resolution to regulate such cable system as to attachment fees, if any; rates and charges to be paid by the subscribers for the service; the quality of service to be provided subscribers; the rate of construction of facilities so as to serve the territorial area referred to hereinafter; to promulgate rules and regulations and other necessary supervisory procedures to assure prompt completion of the system; to provide service for all citizens of the City of Tullahoma and its political jurisdiction wherever located; to set a schedule of construction that will attain the said completion of such system as hereinabove last stated; and to adopt such other rules and regulations it may now or hereafter lawfully impose in keeping with and not in conflict with applicable state or federal law, or the lawful rules and regulations heretofore or hereafter adopted by any federal commission, board or body; and/or any lawful state rules and/or regulations lawfully adopted by any state commission, board or body.

(b) Grantee, its successors and assigns granted a franchise hereunder shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and should it now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar federal commission or state regulatory body, having jurisdiction. If the grantee, its successors or assigns, shall fail to comply with any material federal and/or state statute, rules, regulations, orders or conditions lawfully vested under federal law in any federal regulatory body and/or rules, regulations, orders and conditions lawfully vested in any state regulatory body and/or rules regulations, orders and conditions lawfully vested in the City of Tullahoma, the City of Tullahoma shall have the right to terminate or cancel any franchise granted hereunder after written notice to the grantee to correct such failure or default and such failure or default shall continue for a period of time specified in such notice, not less than ninety (90) days.

(c) Grantee shall be subject to all city resolutions, rules and regulations and grantee shall also be subject to all applicable rules and regulations which, from time to time, may be allowed and/or promulgated by the Federal Communications Commission for cable television systems.

(d) This franchise may be altered, amended or changed to comply with and reflect any change in any state or federal law, not in conflict with the cable act, as to any additional powers or rights given to the city with reference to the operation of the cable television system upon thirty (30) days written notice to the grantee prior to such amendment, alteration or change.

Section 5 – Franchise and area. Any franchise granted hereunder relates to the present limits of the City of Tullahoma and to any area hereafter added thereto during the term of any franchise granted hereunder.

Section 6 – Distribution system. Upon the effective date of this ordinance, the grantee will, to the best of its ability and within a reasonable time frame, undertake to replace and/or upgrade its exiting cable structures, lines and equipment such that the distribution system is capable of carrying in the forward direction at least thirty-five (35) television channels. All new, rebuilt, or upgraded distribution facilities will be capable of stereo sound and two-way transmission. The actual number of channels provided will be dependent upon the market demand of the customers of the cable television system, but not less than that number provided at the time of passage of this ordinance.

Such rebuilding, replacement and/or upgrading of the distribution system shall be completed in accordance with a schedule presented to and approved by the board of mayor and aldermen at the time of final reading of the franchise ordinance. Should the grantee request the board of mayor and aldermen to extend such schedule, justification for such extension shall be presented and substantiated to the board of mayor and aldermen. A request for such extension shall not be unreasonably denied, and any denial of such extension, in whole or in part, shall be accomplished in a written statement by the board of mayor and aldermen which shall set forth the reason for denial.

Section 7 – Technical standards

(a) The cable television system shall be installed and remain capable of using all band equipment and of passing the entire VHF and FM spectrum and it shall have the further capability of converting UHF for the distribution to subscribers on the accepted cable transmission bands.

(b) The cable television system shall be installed and remain capable of transmitting and passing the entire color television signal without the introduction of material degradation of color fidelity and intelligence.

(c) The cable television system shall be installed and remain capable of twenty-four (24) hours per day continuous operation.

(d) The cable television system shall be capable of and will produce a picture upon any subscriber's television screen in black and white or color (provided the subscriber's television set is capable of producing a color picture) that is materially undistorted and free from ghost images and accompanied by proper sound, assuming the standard production television set is in good repair and that the television broadcast signal transmission is receivable satisfactorily at the grantee's antenna site. In any event, the picture produced shall be as good as is generally accepted in the cable television industry.

(e) The cable television system shall transmit or distribute signals of adequate strength to produce good pictures with good sound in all television receivers operating within the manufacturer's specifications of all subscribers without causing cross modulation in the cables or interference with other electrical or electronic systems.

(f) Grantee shall not allow its cable or other operations to interfere with the television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the city. Should grantee discover or otherwise become aware of such interference, grantee shall respond with reasonable diligence to eliminate the interference, but in no event shall such elimination take more than two (2) days from the date of discovery.

(g) Limit failures which leave five (5) or more subscribers with no cable service to a minimum by locating and correcting such malfunctions properly and promptly, but in no event longer than twenty-four (24) hours after notice unless prevented by an act of God.

(h) Demonstrate by instruments or otherwise to subscribers that a signal of adequate strength and quality is being delivered.

Section 8 – Public, educational and governmental access channels and emergency broadcast services required

A. The grantee shall provide and maintain an emergency audio alert system which will be compatible with existing warning devices and which can be accessed via a telephone or radio link, which will be furnished by the city. This system shall provide for immediate muting of the audio on all channels and the insertion of emergency messages via the access link. The city agrees to hold harmless the grantee from any penalties or damages resulting from use of this service.

B. The grantee shall provide, upon implementation of this franchise, and maintain 1 (one) PEG channel which shall lie within all service tiers. This

channel shall have return line capability to allow program origination from the Tullahoma Municipal Building, and shall be under the direct control of city government. At such time that this channel is utilized for programming other than routine public service announcements at an average level of 80% during prime viewing times for a period of 30 days, a second PEG channel shall be made available as soon as it is technically feasible without removing any existing programming, unless an alternative procedure is mutually agreed on by the city and the grantee.

C. Grantee shall provide, at no charge, full basic cable service to all fire halls, schools, community centers and municipal buildings that request this service.

D. The grantee shall, through periodic contributions of equipment and/or money, participate in the operation of the PEG channel(s), in order to provide the best possible picture and sound quality. This participation may be negotiated separately and shall not be considered as a part of any taxes or fees due the city.

Section 9 – Indemnification. Grantee shall save the City of Tullahoma harmless from all loss sustained and all costs incurred by said city, including, but not limited to, reasonable attorney fees by the City of Tullahoma on account of any suit, judgment, execution, claim or demand whatsoever against the City of Tullahoma resulting from negligence on the part of grantee in the construction, operation or maintenance of its cable television system in the City of Tullahoma; and for this purpose grantee shall carry property damage and personal injury insurance with some responsible insurance company or companies qualified to do business in the State of Tennessee. The amounts of such insurance to be carried for liability due to property damage shall be \$250,000 to any one person and \$500,000 to two or more persons on any one occurrence; and against liability due to injury to or death of person, \$500,000 as to any one person and \$1,000,000 as to any one occurrence, and \$1,000,000 for all other types of liability. The insurance company must be "A" rated financially in Best's Guide for Property and Casualty Companies. The City of Tullahoma shall notify grantee, in writing, within (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the City of Tullahoma on account of any negligence as aforesaid on the part of grantee. Where any such claim or demand against the City of Tullahoma is made by suit or other legal action, written notice thereof shall be given by the City of Tullahoma to grantee not less than five (5) days prior to the date upon which an answer to such legal action is due or within ten (10) days after the claim or demand is made upon the City of Tullahoma, whichever notice period yields grantee the larger amount of time within which to prepare an answer. All insurance shall be kept in full force and effect by grantee throughout the term

of this franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the cable television system as defined in this franchise. In the event grantee shall fail to pay any liability insurance premium when due, the city at its option, may pay such premium and charge said amount back to franchise.

An insurance certificate obtained by grantee in compliance with this section shall be filed and maintained with the city recorder during the term of this franchise.

Neither the provision of this section nor any damages recovered by the city hereunder shall be construed as limiting the terms, obligations or liabilities imposed under any other section of this franchise.

If grantee fails to pay the city any compensation within the time fixed herein, or fails to repay the city within thirty (30) days of notice of the amount due, any damages, costs or expenses which the city is compelled to pay by reason of acts of default of grantee in connection with this franchise, or fails after thirty (30) days written notice by the city of grantee's failure to comply with any provision of this franchise which the city determines can be remedied by demand on the performance bond, the city may, subject to subsection D herein, demand payment of the amount thereof, with interest and any penalties, under the performance bond. Upon such demand for payment, the city shall notify grantee of the amount and the date thereof.

B. The grantee shall post with the city recorder a performance bond in the amount of \$100,000.00 or equal to the previous year's franchise fee, whichever is more. This shall be done within thirty (30) days of the date of passage of this ordinance and succeeding anniversary dates.

The rights reserved to the city with respect to the performance bond are in addition to all other rights by the city, whether reserved by negotiation with grantee or authorized by law, and no action, proceeding or exercise of a right with respect to such performance bond shall affect any other rights the city may have.

Section 10 – Construction and maintenance.

(a) All structures, lines and equipment erected by grantee within the City of Tullahoma shall be so located as to cause minimum interference with the proper use of streets, alleys, public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners.



Existing poles, posts, conduits, and other such structures of any electric power system, telephone company, or other public utility located in the City of Tullahoma shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City of Tullahoma shall actively assist grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, including excessive cost or unreasonable limitation upon the use of grantee's cable television system, grantee shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits, and other such structures as may be necessary for the construction and maintenance of its cable television system.

(b) Whenever in any place within the franchise area, all or any part of the electric and telephone utilities shall be located underground, it shall be the obligation of the grantee to locate or to cause its property to be located underground within such places. If the electric and telephone utilities shall be relocated underground in any place within the franchise area after grantee shall have previously installed its property, grantee shall, nevertheless, at the same time or in a timely manner thereafter, remove and relocate its property also underground in such places. Any facilities of grantee placed underground at the property owner's request, in an area where electric or telephone facilities are aerial, shall be installed with the additional expense being paid by the property owner.

(c) In case of any disturbance by grantee of pavement, sidewalk, driveway or other surfacing, grantee shall, at its own cost and expense and in a manner approved by the City of Tullahoma, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced and guarantee such repairs or replacement for one (1) year.

(d) Grantee shall, on the request of any person holding a building moving permit issued by the City of Tullahoma, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Such permits shall require a minimum of 48 hours advanced notice before moving of any structure.

(e) Grantee shall have the authority to trim trees upon and overhanging streets of the franchise area so as to prevent the branches of such trees from coming into contact with grantee's wires and cables. Grantee shall

obtain from the public works director, if required, a permit to conduct any such trimming and the same shall be conducted in strict compliance with all laws and ordinances and at the sole expense of the grantee.

(f) All poles, lines, structures and other facilities of grantee in, on, over and under the streets, sidewalks, alleys, public utility easements and public grounds or place of the City of Tullahoma shall be kept by grantee at all times in a safe condition.

(g) When the City of Tullahoma or the State of Tennessee undertakes any reconstruction, realignment or any other work on City of Tullahoma's streets which would require relocation or modification of grantee's poles, wires, or other facilities, City of Tullahoma shall notify grantee, and grantee shall be responsible for such relocations of grantee's facilities at grantee's expense.

(h) Grantee shall, at all times, employ reasonable care and shall install and maintain devices or systems for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(i) The cable television system shall at all times conform to the construction and maintenance standards as set forth by the Federal Communication Commission and/or the cable industry's accepted standards.

#### Section 11 – Service extension

(a) The cable television system as contemplated herein shall be installed and maintained in accordance with the highest accepted industry standards to the end that the subscriber may receive the most desirable form of service. The cable television system will be built in all areas of the city having a density of 25 occupied dwelling units per cable mile. Then number of miles will be calculated starting at the closest point of active distribution system and will continue until reaching within 250 feet of the dwelling unit.

(b) Grantee agrees to extend its cables to provide additional service within the corporate limits of the City of Tullahoma under the following circumstances: Solely at the cost of the grantee, where the average cost to build does not exceed \$250 per new residential applicant for service connections to be connected to the proposed extension; if the average cost to build exceeds \$250 per residential applicant for service connections to be connected to the proposed extension, the new residential applicants will each pay, or "aid in construction," a pro-rated portion of the extension cost over \$250 average per new residential applicant, unless the new residential applicants will arrange with the grantee for the payment of all or part of the costs of the extension as may be acceptable

to the grantee. The average cost per new residential subscriber to extend service shall be calculated as:

$$\frac{\$ \text{Cost to extend services}}{\# \text{New residential applicants}} = \text{Average cost per new residential applicant}$$

The pro-rated portion of the extension cost over \$250 per new residential subscriber shall be calculated as:

$$\text{Average cost per new residential applicant minus } \$250 = \text{Pro-rated portion per new residential applicant.}$$

The \$250 average cost per new residential applicant will be increased or decrease annually based on the Consumer Price Index applicable to the same twelve-month period with a \$400 maximum cost per residential hook-up. No party shall be considered a new residential applicant for a service connection within the meaning of this section unless such applicant (1) is an occupant of a residence to which service would be extended and (2) will sign a written contract with the grantee to pay the monthly service charge for one connection for a period of twelve months immediately following the date when service is available through the proposed extension.

Aid in construction agreements by the new residential applicants to the grantee must be made in advance of initiating the extension process; grantee subsequently will commence mapping, design and pole make-ready within sixty (60) days. Grantee will commence construction within sixty (60) days of receipt of all required licenses, permits and authorizations. Any monies paid in advance to the grantee as aid in construction but unused, will be refunded to the original new applicant on a pro-rated basis.

(c) Nothing contained herein shall prevent the grantee from extending cables on a cost basis that is more favorable than the requirements of this section to the customers to be served by any extension.

(d) Any extension of service to a commercial business will be negotiated between the said business operator and the grantee.

Section 12 – Amendments and supplemental agreements. It shall be the policy of the City of Tullahoma to amend the franchise upon application of the grantee, when necessary, to enable the grantee to take advantage of any development or developments in the field of transmission of television and radio signals which will afford it an opportunity to more efficiently, effectively or

economically serve its customers. Provided, however, that this section shall not be construed to require the City of Tullahoma to make any amendment.

Section 13 – Filings and communications with regulatory agencies. Copies of all petitions, applications, registrations, and responses to complaints submitted by the grantee to the Federal Communications Commission shall also be submitted simultaneously to the City of Tullahoma.

Section 14 – Maps, plats and reports.

(a) The grantee shall file with the mayor or his/her designee a true and accurate map or plat of all existing and proposed installations.

(b) The grantee shall file annually with the City of Tullahoma, or its designee, not later than ninety (90) days after the end of the company's fiscal year, a detail of gross income, certified by the chief financial officer, applicable to the operations within the City of Tullahoma during the preceding twelve month period. Further, the city shall have the right to inspect the franchisee's records showing the annual gross receipts from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be accorded to the city. Should the city notify franchisee in writing of its desire to inspect and/or audit franchisee's records, franchisee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.

(c) The grantee shall at all times keep on file with the mayor a current list of its partners and stockholders with an interest of 10% or greater, its officers and directors and bond holders.

Section 15 – Franchise term and renewal. This franchise shall take effect and be in full force from February 1, 1992 and after acceptance by grantee as provided in section 20, and the same shall continue in full force and effect for a term of ten (10) years, with two five-year renewals. Renewals shall be accomplished as provided for in federal law and regulations.

Section 16 – Forfeiture. If grantee should violate any material terms, conditions, or provisions of this franchise or if grantee should fail to comply with any material provisions of any ordinance of the City of Tullahoma regulating the use by grantee of the streets, alleys, public utility easements or public ways of the City of Tullahoma, and should grantee further continue to violate or fail to comply with the same for a period of thirty (30) days after grantee shall have been notified in writing by the City of Tullahoma to cease and desist from any such violation or failure to comply so specified, then grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights

and privileges granted by this franchise; provided, however, that such forfeiture shall be declared only by written decision of the board of mayor and aldermen after an appropriate public proceeding before the board of mayor and aldermen affording grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the board of mayor and aldermen may, in its discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply with any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six (6) month period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise.

Section 17 – Surrender right. Grantee may surrender this franchise at any time upon filing with the Mayor of the City of Tullahoma a written notice of its intention to do so at least six (6) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of grantee in connection with this franchise shall terminate. Further, should the grantee, his and/or its successors and assigns discontinue the business for which this franchise is granted, all poles, wires, cables, and other devices shall be removed without expense to the City of Tullahoma, within ninety (90) days after demand for such removal is made by the City of Tullahoma.

Section 18 – Transfers. All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the City of Tullahoma and the successors and assigns of grantee; and the same shall not be assigned or transferred without the written approval of the board of mayor and aldermen, which approval shall not be unreasonably withheld; provided, however, that this section shall not prevent the assignment or hypothecation of the franchise by grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the board of mayor and aldermen.

Section 19 – Franchise fee. Grantee shall pay to the city for the use of the streets and other facilities of the city in the operation of the cable television

system and for the municipal supervision thereof a sum equal to three percent (3%) of the annual gross receipts, as defined herein, from receipts from subscribers within the city. Said fee shall be paid on a quarterly basis within forty-five (45) days after the end of a calendar quarter, with an adjustment fee being the final quarterly payment of the year. Quarterly payments shall be a reasonable estimate of anticipated and realized receipts. The final payment will be adjusted upward or downward by grantee based on gross revenues received for the year in order to arrive at the three percent (3%) per year fee.

In the event this franchise should be terminated or forfeited prior to the end of the franchise term, as defined herein, grantee shall immediately submit to the city an audited financial statement prepared by a certified public accountant acceptable to the city showing the annual gross revenues of grantee for the time elapsed since the last fiscal year report. Grantee shall pay to the city not later than forty-five (45) days following the termination of this franchise a like percentage of such annual gross revenues and any other sums legally due and owing the city.

In the event that any payment is not made on or before the applicable date fixed herein, grantee shall be subject to the penalty provided for hereinafter.

The city shall have the right to inspect the grantee's records showing the annual gross revenues from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be open to inspection by the city. Should the city notify the grantee in writing of its desire to inspect and/or audit grantee's records, grantee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.

Section 20 - Liquidated damages – Should it be found, after conducting the hearing and appeal procedure provided for herein, and after written receipt by the grantee of a finding of violation by the city administrator or his/her designee, that grantee is in violation of the terms of this ordinance, the liquidated damages chargeable to the performance bond, provided for under section 13 herein, shall be as follows:

A. For failure to provide or maintain data and reports as requested by the city or as required herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues, if after ten (10) days written notice of such data or reports are not supplied.

B. For failure to comply with the operation standards as specified in section 6 thereof, following the city board's resolution directing grantee to make

improvements within a reasonable time period, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.

C. For failure to test, analyze and report on the performance of the system following the request of the city, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.

D. For failure to pay the franchise fee when due pursuant to section 10 herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues ten (10) days after written notice.

E. The rights in this section are separate, distinct and in addition to those enumerated elsewhere in this ordinance.

F. Any liquidated damages imposed by the City of Tullahoma in accordance with this license may be reduced by the city if it finds that the failure of the grantee resulted from conditions beyond the grantee's control and/or Acts of God.

G. Any damages assessed under this section 20, shall be subject to judicial review at the request of the grantee.

Section 21 – Franchise to have no recourse -

A. Except as expressly provided for in this franchise, grantee herein shall have no recourse whatsoever against the city for any loss, cost or expense of damage arising out of any of the provisions or requirements of this franchise or because of the enforcement thereof by the city.

B. Grantee further acknowledges by the acceptance of this franchise that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the city or by any other third person concerning any term or condition of this franchise not expressed herein.

C. Grantee further acknowledges by the acceptance of this franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all of the risks of the meaning of such terms and conditions.

D. Grantee further acknowledges by the acceptance of this franchise that this franchise is non-exclusive.

Section 22 – Rights reserved to the city . Without limitation upon the rights which the city might otherwise have, the city does hereby expressly reserve the following rights, powers and authorities:

A. To exercise its governmental police powers now or hereafter to the full extent that such powers may be vested in or granted to the city.

B. To grant additional franchises within the city to other persons for the construction of a cable television system or other related systems.

C. To exercise any other rights, powers or duties required or authorized under the Constitution of the State of Tennessee, the laws of Tennessee or the city charter.

Section 23 - Effective date and acceptance. This ordinance shall become effective on February 1, 1992 and, after acceptance by grantee, shall then be and become a valid and binding contract between the City of Tullahoma and grantee; provided, however, that this ordinance shall be void unless grantee shall, within ninety (90) days after the final passage of this ordinance, file with the Mayor of the City of Tullahoma a written acceptance of this ordinance and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this ordinance.

Section 24 – Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any federal or state court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communication Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 25 – Amendment to Cable Act - Anything to the contrary contained herein notwithstanding, in the event the Congress of the United States shall amend the Cable Act whereby certain additional rights, privileges and/or obligations of the city are allowed, granted, or changed thereby and such amendment (s) are in conflict with this ordinance, such amendment(s) shall prevail.

Section 26 – Passage and effective date. For purposes of becoming a law, this ordinance shall be effective fifteen (15) days from and after its final passage, and after the publication of the caption hereof in a newspaper of general circulation in Tullahoma, Coffee County, Tennessee, the public welfare requiring



Change 2, November 25, 2002

APPE-27

it. For all other purposes, it shall be effective as provided for in Section 23 above.

CITY OF TULLAHOMA, TENNESSEE

BY s/ \_\_\_\_\_  
MAYOR

ATTEST:

s/Patricia H. Williams  
CITY RECORDER

PASSED ON FIRST READING: 12-9-91

PASSED ON SECOND READING: 12-10-91

PASSED ON THIRD READING: 1-13-92

APPENDIX "F"

SEWER USE ORDINANCE

Appendix "F" can be found in Title 18, Chapter 1, "Sewer Use Regulations," of this municipal code.

APPENDIX "G"

INFECTIOUS DISEASE EXPOSURE CONTROL

Appendix "G" can be found in Title 4, Chapter 3, "Infectious Disease Control Policy," of this municipal code.