

The Municipal Zoning Ordinance

City of McEwen, Tennessee

Est. September 1996, Municipal Ordinance #182



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McEWEN ZONING ORDINANCE
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AMENDMENTS

DATE	ORDINANCE	AMENDMENT(S)
May 12, 2009	254	Deleted and Replaced, Article VI, Provisions Governing Floodplain Districts
February 16, 2010	257	Article IV, Section 4.070, D, 2, a, Amended
August 27, 2012	274	Article VII, Section 7.029, Amended by the addition of new language referencing <i>TCA 13-7-208</i> .
October 14, 2014	279	Article III, Section 3.110, Amended by the addition of new paragraph permitting opaque fences as suitable alternative
August 13, 2019	306	Article V, Section 5.052.1, C, Uses Permitted as Special Exceptions, by the addition of Single Detached Dwellings; and Article VIII, Section 8.080, Amended by the addition of a new Subsection F, Special Conditions for Single Detached Dwellings in the C-1 (Commercial Service) District
June 14, 2022	319	Amend Article V, Sections 5.051.1 and Section 5.051.3 to add clarifying language to R-3 District Description; added individual mobile home as Special Exception; adjust setback for R-3.

**ARTICLE I
ENACTMENT**

Section

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

1.010. Authority. An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-210, Tennessee Code Annotated to provide for the establishment of districts within the corporate limits of the City of McEwen, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes including areas subject to flooding; to provide methods of administration of this ordinance; and to prescribe penalties for the violation thereof.

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

1.030. Enactment. WHEREAS, Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated empowers the City to enact a zoning ordinance and to provide for its administration enforcement, and amendment, and

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

WHEREAS, all the requirements of Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated with regard to the preparation of the zoning plan of the Planning Commission and subsequent action of the City Board have been met.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN THAT THE ZONING ORDINANCE OF MCEWEN, TENNESSEE BE ENACTED INTO LAW.

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

- A. Enhancing the character and stability of residential, business, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas.
- B. Preventing the overcrowding of land.
- C. Conserving the value of land and buildings.
- D. Minimizing traffic hazards and congestion.
- E. Preventing undue concentration of population.
- F. Providing for adequate light, air, privacy, and sanitation.
- G. Reducing hazards from fire, flood, and other dangers.
- H. Assisting in the economic provision, utilization, and expansion of all services provided by the public, including but not limited to roads, water and sewer service, recreation, schools, and emergency services.
- I. Encouraging the most appropriate uses of land; and
- J. Enhancing the natural, man-made and historical amenities of McEwen, Tennessee.

ARTICLE II DEFINITIONS

Section

2.010 Scope
2.020 Definitions

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

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" is mandatory.
- D. The word "may" is permissive.
- E. The words "used" or "occupied" includes the words "intended," "designed," or "arranged to be used" or "occupied".
- F. The word "lot" includes the words "plot" or "parcel".

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

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

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

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

ADVERTISING: Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designs used or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, milestones, signboards, wallboard, roofboard, frames, supports, fences, or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

ADVERTISING SIGN OR STRUCTURE: See Sign.

AGRICULTURAL USE: This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, viticulture, floriculture, forests, and woods, provided, however, all health codes of McEwen, Tennessee are complied with. The feeding or disposal of community or collected garbage to animals shall not be deemed an agricultural use, nor shall commercial feed lots, the raising of fur-bearing animals, fish or minnow hatcheries, riding stables, livery or boarding stables or dog kennels be so considered.

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

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

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

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

ATTACHED: Joined together by party wall(s).

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

AUTOMOBILE WRECKING, JUNK, AND SALVAGE YARDS: Any lot or place which is exposed to weather and upon which more than two (2) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

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

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

BED AND BREAKFAST HOMES: A residence within which not more than six guest rooms are provided for occasional paying guests on an overnight basis only. Meals prepared shall be for the overnight guests only. Only preexisting single family residences shall be permitted for this use. Also, all sleeping quarters shall be in the primary residence. All parking must be off-street and one non-illuminated sign of eight (8) sq. ft. maximum shall be allowed. All local building and fire codes shall be met.

BOARD: The McEwen, Tennessee Board of Zoning Appeals.

BUFFER STRIP: A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than

forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

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

BUILDING INSPECTOR/ZONING ADMINISTRATOR: The building inspector/zoning administrator for the City of McEwen, Tennessee.

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

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

BUILDING SETBACK LINE: A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

BUILDING SETBACK LINE, FRONT: A line delineating the minimum allowable distance from the street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the front of a building on a lot. The front building setback line extends the full width of the lot and is parallel to or concentric with the edge of the street (ditch) or future street right-of-way.

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

BUILDING SETBACK LINE, SIDE: A line delineating the minimum distance between the side property line and a building on a lot. The side setback line extends from the front building setback line to the rear building setback line.

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

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

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

CLINIC: See Medical Facility.

CONDITIONAL USE: See SPECIAL EXCEPTION. Such uses may be permitted in a zoning district if they are specially provided for in this ordinance, Article VIII, Section 9.080.

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

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

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

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

DAY CARE CENTER: A facility other than an occupied residence which receives children for day care or any place, including nursery schools which provide definite, specified educational programs, which receives more than 12 children for related day care services.

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

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

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

- a. Single detached dwelling means a building and accessories thereto principally used, designed, or adapted for use by a single family.
- b. Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) families, the living quarters of each of which are completely separate.
- c. Apartment dwellings means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more families each of which has separate living quarters. This includes triplexes and quadruplexes.
- d. Town house means a residential structure containing three or more single non-detached dwelling units separated by a common vertical wall.
- e. Condominium means an apartment building or townhouse, containing three or more dwelling units being under or intended for separate ownership for each family living accommodation.
- f. Mobile home (single-wide) or trailer means built on a chassis, designed for year-round occupancy, and designed to have no foundation other than wheels, jacks, or

skirtings, and which is capable of being moved, towed, or transported by another vehicle.

- g. Manufactured home (double-wide) two (2) units each built on a chassis, designed to be joined into one integral unit capable of again being separated for repeated towing, and arriving at a site complete and ready for occupancy designed to have no foundation other than wheels, jacks or skirtings. Double-wide units shall be allowed in all residential areas.
- h. Multi-family means a building containing three (3) or more dwelling units. The term includes apartments, townhouses, and condominiums.
- i. Prefabricated dwelling means a single detached dwelling constructed primarily off-site, designed, to be transported on a flat-bed truck or trailer, provided that it is installed on a permanently enclosed concrete or masonry foundation, with sewer and water connections designed for permanent connection to municipal or on-site systems, and permanently connected to such systems. Such structures are distinguished from mobile homes as described elsewhere in this ordinance in that once assembled, they are not designed to be disassembled for repeated towing. When such a structure meets the above-stated requirements it shall qualify as a single detached dwelling.
- j. Zero lot line dwelling means a building or structure containing two units, each unit being located on its own zone lot in separate ownership.

FAMILY: One or more persons related by blood, marriage, or adoption, or a group not all related by blood, marriage, or adoption, occupying the premises, and living as a single non-profit housekeeping unit as distinguished from a group occupying a boarding or lodging house or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

FAMILY DAY CARE HOME: An occupied residence in which a person provides day care for five (5) or more children or close relatives. Such care in a family day care home is limited to that care given to no more than twelve (12) children, including children living in the home and children of close relatives cared for in the home.

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

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

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

GASOLINE SERVICE STATION: Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil (but no butane or propane fuels), or automobile

accessories, and incidental services including facilities for lubricating, hand car washing and cleaning, or otherwise servicing automobiles, but not including painting.

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

HEALTH DEPARTMENT: The Humphreys County Health Department.

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

HOME OCCUPATION: See Section 4.040.

HOSPITAL: See Medical Facilities.

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

LANDSCAPING: The planting and maintenance of trees, shrubs, lawns, and other non-lawn type of materials including ground cover; provided, that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects, and similar accessory features may be included as landscaping if integrally designed. The landscaping area may also contain mulch, wood shavings, bark, volcanic rock, or other similar mulch materials. Decorative planters, stone work, brick work and the like are included within this definition but shall not exceed three (3) feet in height. Landscaping areas should be used for retention of storm runoff whenever possible. Landscaping shall provide a pleasant appearance. Retention of existing natural feature is encouraged.

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

LOADING SPACE: An area fourteen (14) feet by fifty-five (55) feet with a fifteen (15) foot height clearance providing for the, standing, loading, or unloading of a truck or other vehicle.

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

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

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

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

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

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

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

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the effective date of this zoning ordinance. Regarding noncomplying lots of record see Section 8.060.

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

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

MEDICAL FACILITIES:

- a. Convalescent, Rest or Nursing Home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.
- b. Dental Clinic or Medical Clinic: A facility for the examination and treatment of ill and afflicted human out-patients, provided, however, that patients are not kept overnight except under emergency conditions.
- c. Hospital: An institution providing health services primarily for human in-patient medical care for sick or injured and including related facilities such as laboratories, out-patient facilities, emergency medical services, and staff offices which are an integral part of the facility.
- d. Public Health Center: A facility utilized by a health unit for the provision of public health services.

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

NONCOMPLYING:

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

either on the effective date of this Ordinance or as a result of any subsequent amendment.

NONCONFORMING USE: A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

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

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

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

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

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

PARKING SPACE: An off-street space available for parking one motor vehicle and having a minimum area of 9 x 18 feet in size, exclusive of passageways and driveways giving access thereto, and having access to a street or alley.

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

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

PLANNING COMMISSION: The McEwen Municipal Planning Commission.

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

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

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

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

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

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

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

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

RIGHT-OF-WAY: The minimum right-of-way in all streets shall be fifty (50) feet which measures twenty-five (25) feet from the street centerline. On each side of all collector streets the right-of-way shall be thirty (30) feet from the centerline. On arterial streets the right-of-way shall be as required by the Tennessee Department of Transportation. Local, collector and arterial streets are shown on the official Major Thoroughfare Plan of McEwen, Tennessee.

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

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

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

SIGN, ACCESSORY BUSINESS: An accessory sign which directs attention to a profession, business, commodity, service, or entertainment conducted, sold, or offered upon the same zone lot.

Sign, Advertising: A sign which directs attention to a business, protection, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same zone lot.

Sign, Animated: Shall be construed to be a sign that is animated, moving, or rotating, or appears to be animated, moving, or rotating.

Sign, Civic: Identifying the nature of activity and other pertinent information for any community facility or activity.

Sign, Development: Denotes the future facility, architect, engineer, contractor, lending agency, and/or developer on construction sites.

Sign, Direct Illumination: All illuminated signs not included in the definition of "Sign, Luminous Background," or "Sign, Indirect Illumination.

Sign, Flashing: Shall be construed to be any sign that flashes or blinks or appears to flash or blink.

Sign, Illuminated: A sign designed to give forth any artificial light or reflects such light from an artificial source.

Sign, Indirect Illumination: Is any illuminated sign which is either a sign illuminated entirely from an external artificial source or an illuminated sign where all attached or internal artificial sources of illumination are not directly visible and shielded by an opaque material.

Sign, Large Realty: Indicates pertinent information regarding property for sale, lease, or rent, of not more than fifty square feet of maximum display surface area, located on the same lot as the facilities advertised.

Sign, Luminous Background: A sign created by trans-illuminating or backlighting of a translucent plastic or glass panel, or panels of similar material, which may be integrally pigmented, painted, or opaqued.

Sign, Portable: A sign not permanently mounted or attached to the ground premises, or building but which is located on the ground, easily movable, may be on wheels or legs, including any single or double surface painted, postured, or panel type sign or any variation thereof.

Sign, Residential: Is an accessory sign which indicates the name and/or address of the occupant of a permitted home occupation.

Sign, Small Realty: Indicates pertinent information regarding property for sale, lease, or rent, of not more than six (6) square feet of maximum display surface area, located on the same lot as the facilities advertised thereon, and if not attached to a building, its height not exceeding five (5) feet above finished grade or if attached to a building its height not extending above the roof line (or parapet wall, if any) of such building.

Signage: Area in square feet of the continuous perimeter of copy including any wording, numerals, emblems, or representative which is used to announce, direct attention to, or advertise, and is visible from outside a building including signage inside a building which is located in a window and illuminated.

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

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

ground level from which the "height of a building" is measured of if it is used for commercial purposes.

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

STRUCTURE: Any combination of materials, including buildings, constructed, or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, and fences.

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

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

TRAVEL TRAILER PARK: A plat of land designed and equipped to accommodate travel trailers for short periods of time.

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

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

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

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

YARD, SIDE: The required space unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

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

ZONING MAP: A map, or series of maps and special overlays (the official copy being maintained by the Building Inspector/Zoning Administrator) showing districts and special districts that are established under the provisions of, and are thereby, a part of this Ordinance.

ZONING PERMIT: A written permit issued by the Building Inspector/Zoning Administrator, same being required before commencing any construction,

reconstruction, alteration of any building or other structure or before establishing, extending, or changing any activity or use on any zone lot.

ARTICLE III GENERAL PROVISIONS

Section

- 3.010 Scope
- 3.020 Only one (1) principal building on any residential lot
- 3.030 Lot must abut a public street
- 3.040 Rear yard abutting a public street
- 3.050 Corner lots
- 3.060 Future street lines
- 3.070 Reduction in lot area prohibited
- 3.080 Obstruction to vision at street intersection prohibited
- 3.090 Access control
- 3.100 Accessory use regulations
- 3.110 Buffer strips
- 3.120 Plot plan requirements

3.010. Scope. For the purpose of the zoning ordinance, there shall be certain general provisions which shall apply, except as specifically noted, to the City as a whole.

3.020. Only one (1) principal building on any residential lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any residential lot. This provision does not prohibit apartments or other similar complexes as permitted under Article V.

3.030. Lot must abut a public street. No building shall be erected on a lot which does not abut at least one (1) publicly approved and accepted street for a distance of at least fifty (50) feet, or at least thirty (30) feet on cul-de-sac courts, or unless it abuts for fifty (50) feet on a street shown on a final subdivision plat as approved by the McEwen Planning Commission.

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

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

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

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

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

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

- A. A point of access for vehicles onto a street shall not exceed thirty (30) feet in width for all residential, retail, and commercial service land uses. All points of access shall be so constructed as to provide for proper drainage of property and public street. A minimum of an eighteen (18) inch culvert shall be provided in the ditch line. For industrial land uses a point of access for vehicles onto a street shall not exceed forty-five (45) feet in width.
- B. There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof, provided, however, that lots less than one hundred (100) feet in width shall have no more than one point of access to any one public street.
- C. No point of access shall be allowed within twenty-five (25) feet of the right-of-way line of any public intersection. On collectors or arterials this minimum shall be forty (40) feet.
- D. No curbs on city streets or right-of-way shall be cut or altered without written approval of the McEwen Building Inspector/Zoning Administrator, or if a state highway, a permit must also be obtained from the Tennessee Department of Transportation.
- E. Where two driveways are provided for one lot frontage, the clear distance between the driveways shall not be less than twenty-five (25) feet.
- F. Cases requiring variances relative to the above provisions due to topographic limitations shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangement would require that vehicles back directly onto a public street.

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

- A. Be customarily incidental to the principal use established on the same lot.
- B. Be subordinate to and serve such principal use.

- C. Be subordinate in area, intent, and purpose to such principal use.
- D. Contribute to the comfort, convenience, or necessity of users of such principal use.
- E. No accessory building shall extend beyond the required front line of the principal building or beyond the required front, side or rear yard of lot, and shall not exceed twenty (20) feet in height.
- F. The following obstructions shall be permitted in any required yard:
 - 1) Awnings and canopies supported only by the wall
 - 2) Fire escapes
 - 3) Flag poles
 - 4) Fountains and flag poles
 - 5) Street furniture, trash receptacles, directional signs, walls or fences not to exceed 6 feet in height.

In any rear or side yard behind the front setback:

- 1) Garages and storage buildings provided with a five (5) foot setback from property line.

3.110. Buffer strips. (Amended by Ordinance #279, October 14,2014)

Where a use is established in areas zoned nonresidential which abuts at any point upon property zoned residential, the developer of said use shall provide a buffer strip as defined herein at the point of abutment.

An opaque fence at least six (6) feet but no greater than eight (8) feet in height, or any combination of opaque fencing and buffer strip, may be utilized as a suitable alternative to providing a buffer strip, if in the opinion of the planning commission it is demonstrated to be installed properly and maintained while minimizing the negative impact(s) of the nonresidential zoning on the adjacent residential zone.

3.120. Plot plan requirements. The purpose of this provision is to prevent undesirable site development which would unduly create inadequate circulation and unnecessary congestion; to obtain maximum convenience, safety, economy, and identity in relation to adjacent sites; and to provide maximum flexibility for expansion, change in use, and adaptation to individual needs. Thus, applicants for building permits must submit scale drawings, according to the particular types of development proposals, to the McEwen Municipal Planning Commission in accordance with the following procedures:

- A. Proposals for the construction or location of one (1) or more principal structures on a lot (with the exception of single-family and two-family dwellings, where there is only one structure per lot) shall be submitted at a scale no smaller than 1"-100', and must exhibit required automobile storage areas, loading and unloading spaces, maneuvering areas, openings for ingress and egress to public streets, landscape treatment, any required buffer strips, required building setbacks, topographic contour (not greater than 5 foot intervals) drainage plans, floodable areas if applicable, location of existing and proposed utility lines, and location of all easements rights-of-way, in accordance with Article III, General Provisions outlined in this ordinance.

- B. The above applications must be supported by any other information or data as might be deemed necessary by the McEwen Municipal Planning Commission.
- C. Proposals for mobile home parks shall follow separate provisions as set forth herein.

**ARTICLE IV
SUPPLEMENTARY PROVISIONS
APPLYING TO SPECIFIC DISTRICTS**

Section

- 4.010 Off-street parking requirements
- 4.020 Off-street loading and unloading requirements
- 4.030 Temporary use regulations
- 4.040 Customary incidental home occupations
- 4.050 Development standards for mobile home parks
- 4.060 Gasoline service station restrictions
- 4.070 Sign Regulations
- 4.080 Development standards for Automobile Wrecking, Junk, and Salvage Yards

4.010. Off-street parking requirements. Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One (1) vehicle space shall be one hundred sixty-two (162) square feet in size (9 feet x 18 feet) and such space shall be provided with vehicular access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

- A. Single Detached Dwelling and Duplex: Not less than two (2) spaces for each dwelling unit.
- B. Apartment Dwelling: Not less than two (2) spaces per dwelling unit.
- C. Boarding Houses and Rooming Houses: Not less than one (1) space for each (1) room to be rented.
- D. Townhouse and Condominium: Not less than two (2) spaces per dwelling unit.
- E. Other Dwelling Units: Not less than two (2) spaces per dwelling unit.
- F. Hotels, Motels, and Other Tourist Accommodations: Not less than one (1) space for each room to be rented plus one (1) additional space for each employee.
- G. Any Auditorium, Church, Stadium, or Other Place of Public Assembly: Not less than one (1) space for each four (4) seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one (1) space for each two hundred (200) square feet of floor space devoted to that particular use shall be provided.

- H. Manufacturing, Industrial or Wholesaling Use: Not less than one (1) space for each two (2) employees anticipated during maximum production, with a minimum of five (5) spaces provided for any establishment. For establishments maintaining space for the sale of products at retail, there shall be provided one (1) parking space for each five hundred (500) square feet of floor area devoted to retail sales.
- I. Office and Professional Buildings: Not less than one (1) parking space for each three hundred (300) square feet of office space located on the first floor plus one parking space for each five hundred (500) square feet of floor space (or fraction thereof) above or below the first or main floor; provided that office space constructed or arranged on the floors above or below the first floors of retail or other business establishments and not used in connection therewith, shall fall within the meaning of this subsection, plus one (1) parking space per each employee.
- J. Retail Sales and Service Establishments: Not less than one (1) parking space for each two hundred and fifty (250) square feet, or fraction thereof, of floor space.
- K. Medical or Dental Clinic: Not less than four (4) spaces per doctor, plus one (1) additional space for each employee.
- L. Service Stations: Not less than five (5) spaces for grease rack or service bay, or one (1) space for each 1,400 square feet of lot area or fraction thereof, whichever is greater.
- M. Restaurants: Not less than one (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space for each two employees. For drive-in restaurants, one (1) space per one hundred (100) square feet of gross floor area, plus one (1) space for each employee.
- N. Shopping Centers: Five and one-half (5 1/2) parking spaces per each one thousand (1,000) square feet of gross floor area.
- O. Other: For buildings and uses not listed, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

4.010.1 Certification of minimum parking requirements. Each application for a building permit shall include information as to the location and dimensions of off-street parking spaces and the means of ingress and egress to such spaces. This information shall be in sufficient detail to enable the Building Inspector/Zoning Administrator to determine whether or not the requirements of this section are met.

4.010.2 Combination of required parking spaces. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose

peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

4.010.3 Remote parking spaces. If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use, provided such land is in the same ownership or lease as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this ordinance, has been made for the principal use.

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

- A. The parking area adjoins a commercial or industrial district.
- B. The parking space in this area have their only access to or front upon the same street as the property in the commercial or industrial districts for which it provides the required parking spaces.
- C. The parking area is separated from abutting properties in the residential districts by a buffer strip.

4.010.5 Requirements for design of parking lots.

- A. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
- B. Parking space shall be no less than one hundred sixty-two (162) square feet in area.
- C. Entrances and exits for all off-street parking shall comply with the requirements of Section 3.090 of this ordinance.
- D. The parking lot shall be designed in such a manner as to provide adequate drainage and to eliminate the possibility of stagnant pools of water.
- E. There shall be a parking aisle at least twenty-two (22) feet wide serving all 90 degree and 60-degree angled parking spaces. For all 30- and 45-degree angled parking spaces there shall be a minimum parking aisle of 16 feet in width.

F. All driveways and parking areas in commercial and industrial zones shall be constructed with a "Dust Free" surface.

4.020. Off-Street Loading and Unloading Requirements. Every building or structure hereafter constructed and used for business or trade involving the receiving or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public street. The minimum required spaces for this provision shall be based on the total usable floor area of each principal building according to the following table:

Total Usable Floor Area for Principal Building	Spaces Required (See definition, Art. II)
0 to 4,999 sq. ft.	One (1) space
5,000 to 20,000 sq. ft.	Two (2) spaces
Over 20,000 sq. ft.	One (1) space for each additional 20,000 sq. ft.

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

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

- A. Carnival, Circus, Flea Markets, Outdoor Concerts, Car Shows, etc.: May obtain a Temporary Use Permit in the Commercial or Industrial Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided.
- B. Christmas Tree Sale: May obtain a thirty (30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.
- C. Temporary Buildings: Use Permit may be issued for contractor's temporary office and equipment sheds incidental to construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.

- D. Religious Tent Meetings: In any district a Temporary Use Permit may be issued for a tent or other temporary structure to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

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

4.040. Customary incidental home occupations. A customary incidental home occupation is a gainful occupation or profession (including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty, and tailor shops), conducted by members of a family residing on the premises or only one person in addition to those persons residing therein and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. An announcement sign of not more than four (4) square feet in area is permitted. When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the district in which said home occupation is located. However, activities such as dancing instruction, tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, eat in or takeout food service, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

4.050. Development Standards for Mobile Home Parks. The following land development standards shall apply for all mobile home parks:

- A. No parcel of land containing less than two (2) acres and less than ten (10) mobile home spaces, available at the time of first occupancy, shall be utilized for a mobile home park.

B. The mobile home park shall be located on a well drained site, properly graded to ensure rapid drainage and to avoid the possibility of stagnant pools of water.

C. Dimensional Requirements for Parks:

1. Each mobile home park shall have a front yard setback of thirty (30) feet exclusive of any required yards for each mobile home space, extending for the full width of the parcel devoted to said use.
2. Each mobile home park shall provide rear and side yards of not less than fifteen (15) feet, exclusive of any required yards for each mobile home space, from the parcel boundary.
3. In instances where a side or rear yard abuts a public street, said yard shall not be less than thirty (30) feet.
4. No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty (30) feet.
5. Each mobile home park shall be permitted to display, on each street frontage, one (1) identifying sign of a maximum size of twenty (20) square feet. Said sign(s) shall contain thereon only the name and address of the park and may be lighted by indirect lighting only.

D. Dimensional Requirements for Mobile Home Space:

1. Each mobile home space shall be at least thirty-six (36) feet wide and such space shall be clearly defined by permanent markers.
2. There shall be a front yard setback of ten (10) feet from all access roads within the mobile home park.
3. Mobile homes shall be harbored on each space so there shall be at least a twenty (20) foot clearance between mobile homes; provided, however, with respect to mobile home parked end-to-end, the end-to-end clearance shall not be less than fifteen (15). No mobile home shall be located closer than twenty (20) feet from any building within the mobile home park.
4. There shall be at least two (2) paved, off-street parking spaces for each mobile home space, which shall be on the same site as the trailer served and may be located in the rear or side yard of said trailer space.
5. Each mobile home space shall be provided with a pad which shall be a minimum of twelve (12) feet by fifty (50) feet, which shall be constructed of four (4) inches of compacted gravel.
6. The minimum lot area per mobile home space with public water and sewer shall be three thousand six hundred (3,600) square feet. For double-wide mobile homes, the minimum lot size shall be six thousand (6,000) square feet.
7. No mobile home park shall be permitted unless such park is served by a public water supply and public sewer system.

E. General Requirements:

1. Roads within the mobile home park shall be paved to a width of not less than twenty (20) feet in accordance with the procedures and standards for minor residential streets as specified in the McEwen Subdivision Regulations; and the right-of-way shall only be of sufficient width to include the road surface itself and necessary drainage facilities. All roads within the mobile home park shall be private roads and shall not be accepted as public roads.
2. All mobile home spaces within the park shall abut an access road as described in Subsection E,1, of this section.
3. Each mobile home space shall be provided with a connection to city's sanitary sewer line.
4. Trailers, with or without toilet facilities, that cannot be connected to an approved sewer system shall not be permitted in a mobile home park.
5. Cabanas, travel trailers, and other similar enclosed structures are prohibited.
6. Mobile homes shall not be used for commercial, industrial, or other nonresidential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a rental office.
7. Ground anchors shall be installed at each mobile home space to permit tiedowns of mobile homes.

F. Plans and Schedules Required: the following information shall be shown on the required site plan:

1. The location and legal description of the proposed mobile home park.
2. The location and size of all buildings, improvements, and facilities constructed or to be constructed within the mobile home park.
3. The proposed use of buildings shown on the site plan.
4. The location, and size of all mobile home spaces.
5. The location of all points of entry and exit for motor vehicles and the internal street circulation pattern.
6. The location of all off-street parking facilities.
7. The location of park and recreation areas.
8. The name and address of the applicant.
9. A comprehensive drainage plans.
10. Such other architectural, engineering, and topographical data as may be required by the McEwen Building Inspector, the staff planner, and the Board of Zoning Appeals to determine if the provisions of these regulations are being complied with shall be submitted with the site plan.
11. A time schedule for development shall be prepared, which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.
12. All mobile home parks which do not conform to the provisions of the zoning ordinance shall be governed in accordance with the provisions of Section 7.020 of this ordinance.

G. Application for Mobile Home Park Building Permit: An application for a permit to develop and construct a mobile home park shall be filed in accordance with Article VIII, Section 8.080, of this ordinance and shall be accompanied by all site plans, schedules, and other information herein required. Said application shall be processed in the following manner.

1. The written application, plans, and schedules, herein required, will be submitted to the McEwen Building Inspector and staff planner.
2. The Building Inspector and staff planner shall duly review these materials and shall coordinate the review with other affected agencies and departments.
3. The McEwen Building Inspector and staff planner shall, after review, recommend approval or disapproval of the proposed mobile home park to the Board of Zoning Appeals, which then may authorize the issuance of a permit for construction of the park as approved, or state the conditions under which approval for construction may be granted.

4.060. Gasoline Service Station Restrictions. The following regulations shall apply to all gasoline service stations:

- A. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.
- B. Gasoline pumps shall not be located closer than twenty-five (25) feet to any street right-of-way line.
- C. Sign requirements as established in Article IV, Section 4.070, shall be met.

4.070. Sign Regulations. The following regulations shall govern the placement and character of all types of signs in all districts. They are established as a reasonable and impartial method of regulating advertising structures in order to insure light, air, and open space; to reduce traffic hazards, to reduce glare and intrusions into residential areas, and to protect property values of the entire community. These regulations shall apply to all exterior signs.

All accessory business, freestanding business, advertising signs, and special event signs shall require a sign permit from the Office of the Building Inspector/Zoning Administrator. All other allowed signs shall not require a permit but shall be deemed illegal if they are not in any way in conformance with these regulations.

- A. Exclusion from Sign Regulations. The following shall not be subject to the provisions of this section:
 1. Signs provided or required by a duly constituted governmental body.
 2. Flags or emblems of a political, philanthropic, educational, or religious organization.
 3. Memorial plaques or tablets.

4. Temporary signs for a period not to exceed forty-five (45) days announcing a campaign, drive, or event of the organizations listed in (2) above.
5. Small signs not to exceed one (1) by two (2) feet in size used for the direction or convenience of the public such as entrance and exit signs.
6. Small realty signs as defined.
7. Decals affixed to windows or door glass panes, included painted messages.

B. General Regulations. In all zoning districts the following general regulations shall apply:

1. No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of traffic, or be confused with, any authorized traffic control sign, signal, device, or emergency vehicle.
2. No illuminated sign shall be permitted within one hundred (100) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.
3. No sign shall exceed the maximum height of buildings for the district in which it is located.
4. Advertising signs shall be erected or placed in conformity with the side, front, and rear yard requirements of the district in which located. However, no advertising sign shall be erected or placed closer than within fifty (50) feet of any residential district. All other freestanding signs must be setback at least ten (10) feet from all property lines.
5. No sign shall be located in or project across any street or alley right-of-way.
6. No flashing signs shall be allowed.
7. Inflatable signs and objects including, but not limited to balloons shall not be allowed.
8. Posters or handbills affixed to trees or other natural vegetation, rocks, or utility poles shall not be allowed.
9. Animated and moving signs, including but not limited to pennants banners or flags with commercial messages; streamers, propellers, discs, and search lights shall not be allowed.
10. Political campaign signs shall be allowed on private property only.
11. Temporary yard sale signs shall be allowed on private property only.
12. Protection of First Amendment Rights - Any sign, display, or device allowed under these regulations may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this ordinance.

C. Residential District Regulations. Within all residential districts, the following regulations shall apply:

1. These signs are permitted: civic, development, large realty, and residential.
2. The maximum size of any permitted sign shall be twenty-five (25) square feet.

3. Any lighting shall be either indirect or luminous background.
4. All other types of signs are prohibited.

D. Commercial and Industrial District Regulations. The following regulations shall apply to such districts as indicated:

1. Within all districts, these signs are permitted: civic, development, large realty, and residential.
2. Within all Commercial and Industrial Districts, accessory business signs are permitted subject to the following restrictions:
 - a. Each lot occupied by a business may have one (1) freestanding business sign not attached to the building with a maximum size of 100 square feet per sign face. Where more than one business is located on a single lot, a maximum of two freestanding signs shall be permitted not to exceed 100 square feet in size total. The bottom of the sign face must be a minimum of 10 feet above the ground surface. **(Amended by Ordinance 257, February 16, 2010)**
 - b. Each business may have an additional wall mounted sign which shall not extend above the roof line or beyond the side walls of the building. In a shopping center each business may also have an identification sign which hangs or projects from the wall and does not exceed one (1) by two (2) feet in size.
3. Advertising signs (billboards) are permitted within the Commercial and Industrial Districts only, subject to the following regulations:
 - a. The maximum size shall be 300 square feet.
 - b. The minimum distance between signs shall be 500 feet.
 - c. No such sign shall be constructed on the roof of a building.
 - d. No such sign shall be located within fifty (50) feet of a residential boundary nor within one hundred (100) feet of a residential building. Light or glare shall not be permitted to intrude into a residential area.
4. Portable signs may be permitted by special request to the planning commission. Such signs may be used to advertise special sales or events for a period not to exceed 30 days. After such 30-day period expires, said sign shall be removed and another permit for a portable sign shall not be granted on the same lot for a period of 90 days. No more than one such sign may be permitted on any one lot.

4.080. Development standards for automobile wrecking, junk and salvage yards. Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create

problems of noise, dust, traffic, and health hazards, and may adversely affect property value by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlines above, will have properly minimized their objectionable characteristics:

- A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.
- E. **Off-Road Parking:** As regulated in Article IV, Section 4.010.
- F. **Ingress and Egress:** The number of vehicular access driveways permitted on any single street frontage shall be limited to:
 - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
 - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width maximum, exclusive of curb returns.
 - 3. Other applicable requirements of Section 3.090 shall be met.
- G. **Application for Automobile Wrecking Junk or Salvage Yard Permit:** No person shall own or maintain an automobile wrecking, junk, or salvage yard within McEwen until he has secured a permit from the McEwen Building Inspector/Zoning Administrator. An application for said permit shall be filed in accordance with Article VIII, Section 8.030, of this ordinance and shall be accompanied by a detailed site plan, a schedule for construction, and any other information herein required. Said application shall be submitted along with any plans and schedules.

Article V

Zoning Districts

Section

- 5.010 Classification of districts
- 5.020 Zoning Map
- 5.030 Zoning district boundaries
- 5.040 Zoning of annexed territory
- 5.050 Specific district regulations

5.010. Classification of districts. For the purpose of this ordinance, the following zoning districts are hereby established in the City of McEwen, Tennessee:

<u>Zoning District</u>	<u>District Abbreviation</u>
Low-Density Residential	R-1
Medium-Density Residential	R-2
High-Density Residential	R-3
Commercial Service	C-1
Light Industrial	I-1
Heavy Industrial	I-2

5.020. Zoning Map. The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map designated as the Official Zoning Map of McEwen, Tennessee. The Zoning Map and any amendment thereto shall be dated with the effective date of the adopted Official Zoning Map and amendments thereto shall be maintained in the office of the Building Inspector and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

5.030. Zoning district boundaries. Unless otherwise indicated, the district boundary lines are centerlines of streets or blocks or such lines extended, lot lines, corporate limit lines or the centerline of the main tracks of a railroad, and the center of streams when applicable. Such lines drawn as to appear on these lines are hereby on these lines. Where district boundary lines approximately parallel a street or other right-of-way, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by use of the scale and said zoning map. Questions concerning

the exact locations of district boundaries shall be determined by the McEwen Board of Zoning Appeals. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.

5.040. Zoning of annexed territory. All territory which may hereafter be annexed to the City of McEwen shall be zoned "Low-Density Residential, R-1." Such annexed territory shall retain such zoning classification until such time as the necessary studies are made by the Planning Commission and the Official Zoning Map is amended in the manner provided.

5.050. Specific district regulations. The following regulations shall apply in the six (6) zoning districts established in Section 5.010 of this ordinance.

5.050.1. Residential Districts. The Residential Districts established by this ordinance are designed to promote and protect public health, safety, comfort, convenience, prosperity, and other aspects of the general welfare. The general goals include, among others, the following specific purposes:

1. To provide sufficient space in appropriate locations for residential development to meet the housing needs of the City's present and expected future population, with due allowance for the need for a choice of sites and building types.
2. To protect residential areas, as far as possible, against heavy traffic and against through traffic of all kinds.
3. To protect residential areas against congestion, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces.
4. To require the provision of open space and a maximum conservation of natural sites in residential areas.
5. To provide for access of light and air to windows and for privacy by controls over the spacing and height of buildings and other structures.
6. To provide appropriate space for those public and private educational, recreational, health, and similar facilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences.
7. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for

particular uses, to conserve the value of land and buildings, and to protect the City's tax revenue.

5.051.1 R-1, Low-Density Residential District.

A. District Description: This district is designed to provide suitable areas for low density residential development characterized by an open appearance. Most generally this district will consist of single-family detached dwellings and such other structures as are accessory thereto. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of the district, or which are benefited by and compatible with a residential environment. Further it is the intent of this ordinance that this district be located so that the provision of appropriate urban services and facilities will be physically and economically facilitated. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exception uses, and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted: In the R-1, Low-Density Residential District, the following uses, and their accessory uses are permitted:

1. Single detached dwelling.
2. Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line.
3. Customary incidental home occupation as regulated in Article IV, Section 4.040.
4. Agriculture.
5. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions: In the R-1, Low-Density Residential District, the following uses, and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII, Section 8.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Family day care homes.
4. Public and semi-public recreational facilities and grounds.
5. Utility facilities (without storage yards) necessary for the provision of public services.
6. Bed and Breakfast Homes.
7. Government buildings and community centers.
8. Cemeteries.

D. **Uses Prohibited:** Mobile Homes and mobile home parks; billboards and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. **Dimensional Regulations:** All uses permitted in the R-1, Low-Density Residential District shall comply with the following requirements except as provided in Article VII.

1. Minimum Lot Size:

	Without Public Sewer (in sq. ft.)	With Public Sewer (in sq. ft.)
Area	40,000	20,000
Area per Family	40,000	20,000
Lot with at Building Setback Line	125 ft	100 ft
Lot Width at Street	100	100

2. Minimum Yard Requirements:

Front Setback	40 feet
Side	15 feet
Rear	25 feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

4. Height Requirement: No building shall exceed thirty-five (35) feet in height, except as provided in Article VII, Section 7.050.

5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

5.051.2 R-2, Medium-Density Residential District.

A. **District Description (Amended by Ord, #319):** This district is designed to provide suitable areas for medium density residential development where complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally this district will be characterized by single and two-family (duplex) detached dwellings and such other structures as are accessory thereto. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of the districts, or which are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses

having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted: In the R-2, Medium-Density Residential District, the following uses and their accessory uses are permitted:

1. Single detached dwelling.
2. Duplex dwelling.
3. Customary accessory buildings including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line.
4. Customary incidental home occupations as regulated in Article IV, Section 4.040.
5. Agriculture.
6. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions: In the R-2, Medium-Density Residential District, the following uses, and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII, Section 8.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Family day care homes.
4. Day care centers.
5. Public and semi-public recreational facilities and grounds, and other public and semi-public uses.
6. Utility facilities (without storage yards) necessary for the provision of public services.
7. Bed and Breakfast Homes.
8. Government buildings and community centers.
9. Cemeteries.
10. Multi-Family - sewer only.
11. Zero lot line dwellings (duplexes), subject to requirements of Article VII, Section 7.090.

D. Uses Prohibited: Mobile homes and mobile home parks, billboards, and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations: All uses permitted in the R-2, Medium-Density Residential District shall comply with the following requirements except as provided in Article VII.

1. Minimum Lot Size

	Without Public Sewer (in sq. ft.)	With Public Sewer (in sq. ft.)
AREA		
Single Detached	20,000	15,000
Multi-Family	Not Allowed	15,000
Duplex	30,000	25,000
AREA PER FAMILY		
Single Detached	20,000	15,000
Multi-Family	Not Allowed	5,000
Duplex	15,000	12,500
Lot Width at Building Setback Line	100	90
Lot Width at Street	75	75

2. Minimum Yard Requirements:

Front Setback	35 feet
Side	15 feet
Rear	20 feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

4. Height Requirement: No building shall exceed thirty-five (35) feet in height, except as provided in Article VII, Section 7.050.

5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

5.051.3 R-3, High-Density Residential District.

A. District Description: This district is designed to provide suitable areas for high density residential development where sufficient urban facilities, including public sewer, are available or where such facilities will be available prior to development. Most generally this district will be characterized by residential structures each containing a multiple number of dwelling units as well as single-and two-family (duplex) detached dwellings, mobile homes, and mobile home parks. However, it is the intent of this ordinance to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open space on such lot relative to the number of dwelling units thereon. This district is intended also to permit community facility and public utility installation which are necessary to service and do service specifically the residents of the district, or which installations are

benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

B. Uses Permitted: In the R-3, High-Density Residential District, the following uses and their accessory uses are permitted:

1. Single detached dwelling.
2. Individual double wide mobile homes with permanent masonry skirting, or replacement single-wide mobile homes with permanent masonry skirting for replacing previously existing single-wide mobile homes.
3. Duplex dwelling.
4. Multi-family dwelling.
5. Board and rooming houses.
6. Customary accessory buildings including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line.
7. Customary incidental home occupations as regulated in Article IV, Section 4.040.
8. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions: In the R-3, High-Density Residential District, the following uses, and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII, Section 8.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Family day care homes.
4. Day care centers.
5. Public and semi-public recreational facilities and grounds, and other public and semi-public uses.
6. Utility facilities (without storage yards) necessary for the provision of public services.
7. Bed and Breakfast Homes.
8. Government buildings and community centers.
9. Cemeteries.
10. Mobile home parks as regulated in Article IV, Section 4.050 (2 acre minimum required).
11. Zero lot line dwellings (duplexes), subject to requirements of Article VII, Section 7.090.
12. Single-wide mobile homes.

D. Uses Prohibited: Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations: All uses permitted in the R-3, High-Density Residential District shall comply with the following requirement except as provided in Article VII.

1. Minimum Lot Size:

	Without Public Sewer (in sq. ft.)	With Public Sewer (in sq. ft.)
AREA		
Single Detached		7,500
Mobile Home (Double wide only)		7,500
Duplex		7,500
Multi-Family		15,000
AREA PER FAMILY		
Single Detached		7,500
Mobile Home (Double wide only)		7,500
Duplex		4,000
Multi-Family		3,000
Lot Width at Building Setback Line		
Multi-Family		100
All Others		70
Lot Width at Street		60

2. Minimum Yard Requirements:

Front Setback 30 feet
 Side 10 feet
 Rear 20 feet

3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty (40) percent of the total area of such lot or parcel.

4. Height Requirement: No building shall exceed three (3) stories or thirty-five (35) feet in height, except as provided in Article VII, Section 7.050.

5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

5.052. Commercial Districts. The Commercial Districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order,

prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.
2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.
3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.
4. To provide sufficient space in appropriate locations for commercial districts to satisfy function needs of McEwen, and in particular the need for medical services, and the needs of the general public traveling along major highways.
2. To provide sufficient space in appropriate locations for the mixture of compatible high density residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.
3. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.
4. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial development, to strengthen the economic base of McEwen, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect McEwen's tax revenues.

5.052.1 C-1, Commercial Service District

A. District Description. This district is designed to provide adequate space in appropriate locations for uses which serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in these

districts, in part, are designed to minimize compatibility with lesser intense use of land or building in proximate residential districts. Appropriate locations for this district are along major traffic arteries.

B. Uses Permitted. In the C-1, Commercial Service District, the following uses, and their accessory uses are permitted.

1. Retail Trade:

- a. Building materials, hardware, and farm equipment.
- b. General merchandise.
- c. Food.
- d. Automotive, marine craft, aircraft, and accessories.
- e. Apparel and accessories.
- f. Furniture, home, furnishings, and equipment.
- g. Eating and drinking.
- h. Drug, antiques, books, sporting goods, garden supplies, jewelry, fuel, and ice.

2. Hotels, motels, and tourist courts.

3. Churches and mortuaries.

4. Professional services.

5. Gasoline service stations subject to the provisions of Article IV, Section 4.060.

6. Commercial recreation uses.

7. Signs and billboards as regulated in Article IV, Section 4.080.

8. Finance, insurance, and real estate services.

9. Personal services.

10. Business services.

11. Repair services.

12. Governmental services.

13. Educational services.

14. Transportation communication and utility services.

15. Medical offices, clinics, etc.

16. Nursing homes.

17. Florist shops.

18. Medical and dental laboratories.

19. Offices providing advice, design, or consultation of a professional nature, i.e., lawyers, accountants, engineers, architects, etc.

20. Credit bureau offices.

21. Banks and savings and loan associations.

22. Real estate, insurance, and other related business offices.

23. Animal health facilities including veterinary clinics.

24. Day care centers.

25. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions: In the C-1, Commercial Service District, the following uses, and their accessory uses may be permitted after review and approval in accordance with Article VIII, Section 8.060.

1. Travel trailer parks and overnight campgrounds.
2. Mini warehouses.
3. Single Detached Dwellings (refer to Article VIII, Section 8.080 (F) for Special Conditions) **Added by Ordinance #306, August 13, 2019**
4. Any other commercial business or service which, in the opinion of the Board of Zoning Appeals, is of the same general character as the above permitted uses, and subject to such conditions and safeguards as the Board may specify to preserve the character of this district.

D. Uses Prohibited: Industrial uses; truck terminals; junkyards, including automobile wrecking and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

1. Minimum Lot Size: No minimum lot size shall be required in the C-1 District.
2. Minimum Yard Requirements:

Front Setback -	Thirty (30) feet
Side -	Fifteen (15) feet
Rear -	Twenty (20) feet
3. Maximum Lot Coverage: No maximum lot coverage shall be imposed in the C-1 District.
4. Height Requirement: No building shall exceed thirty-five (35) feet in height, except as provided in Article VII, Section 7.050.
5. Parking Space Requirement: As regulated in Article IV, Section 4.010.

F. Landscaping Provisions: Each site shall be developed with a minimum of ten (10) percent of the lot area landscaped to enhance site appearance. Included in the ten (10) percent coverage, there shall be maintained a landscaped strip at least ten (10) feet wide along all street rights-of-way lines exclusive of business driveways and walkways.

5.053 Industrial Districts. The Industrial Districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations to meet the needs of the area of McEwen's expected economic expansion for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.
2. To protect distributive, industrial, and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provided that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.
3. To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.
4. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.
5. To protect industrial activities and related development against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.
6. To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the McEwen area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect McEwen's tax revenues.

5.053.1 I-1, Light Industrial District.

- A. District Description: This district is designed for a wide range of industrial and related uses which conform to a high level of performance standards. Industrial establishments of this type, within completely enclosed buildings, provide a buffer between Commercial Districts and other industrial uses which involve more objectionable influences. New residential development is excluded from this district, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities which provide needed services to industrial development are permitted.

B. Uses Permitted: In the I-1, Light Industrial District, the following uses, and their accessory uses are permitted:

1. Food and kindred products manufacturing, except meat products.
2. Textile mill products manufacturing except dyeing and finishing of textiles.
3. Apparel and other finished products made from fabrics, leather, and similar materials manufacturing.
4. Furniture and fixtures manufacturing.
5. Printing, publishing, and allied industries.
6. Stone, clay, and glass products manufacturing.
7. Fabricated metal products manufacturing except ordinance and accessories.
8. Professional, scientific, and controlling instruments; photographic and optical goods, watches, and clocks manufacturing.
9. Miscellaneous manufacturing including jewelry, silverware and plated ware, musical instruments and parts, toys, amusement and sporting goods manufacturing pens, pencils, and other office materials, costume jewelry, novelties, and miscellaneous notions; tobacco manufacturing, motion picture production.
10. All types of wholesale trade.
11. Office functions only where it is directly related to the industrial establishment in which it is located.
12. Signs and billboards as regulated in Article IV, Section 4.080.
13. Warehouse, storage, and truck terminal facilities.
14. Agricultural equipment sales and repair.
15. All public utilities including buildings, necessary structures, storage yards and other related uses.
16. Animal health facilities including veterinary clinics.
17. Building materials storage and sales.
18. Airports.
19. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions. In the I-1, Light Industrial District, the following uses, and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII, Section 8.060.

1. Retail and convenience.

D. Uses Prohibited: Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations: All uses permitted in the I-1, Light Industrial District shall comply with the following requirements except as provided in Article VII. (nonconforming uses)

1. **Minimum Lot Size:** No minimum lot size is required in the I-1 District.
2. **Minimum Yard Requirements:**

Front Setback	50 feet
Side	20 feet
Rear	20 feet
3. **Maximum Lot Coverage:** On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.
4. **Height Requirements:** Buildings shall not exceed fifty (50) feet in height, except as provided in Article VII, Section 7.050.
5. **Parking Space Requirements:** As regulated in Article IV, Section 4.010.

5.053.2 I-2, Heavy Industrial District.

A. District Description: This district is designed to accommodate industrial uses which involve more objectionable influences and hazards, and which, therefore, cannot be reasonably expected to conform to a high level of performance standards, but which are essential for the economic viability of the McEwen area. No new residential developments are permitted, thereby ensuring protection of such developments from an undesirable environment while at the same time ensuring adequate areas for industrial activities.

B. Uses Permitted: In the I-2, Heavy Industrial District, the following uses and their accessory uses are permitted:

1. Uses that are permitted in the I-1, Light Industrial District.
2. Lumber and wood products manufacturing.
3. Lots of yards for scrap or salvage operations or for processing, storage, display, or sales or any scrap or salvage materials.
4. Meat products manufacturing.
5. Dyeing and finishing of textiles.
6. Paper and allied products manufacturing.
7. Chemicals and allied products manufacturing.
8. Petroleum refining and related industries.
9. Rubber and miscellaneous plastic products manufacturing.
10. Primary metal industries.
11. Ordnance and accessories manufacturing.
12. Mining activities and related services.
13. Automotive and related manufacturing.
14. Transmission and Communication Towers, including cell towers.

C. Uses Permitted as Special Exceptions: In the I-2, Heavy Industrial District, the following uses, and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060. These uses shall meet all performance standards as listed in Subsection 5.053.2 F.

1. Automobile wrecking, salvage, and junk yards, subject to provisions of Article IV, Section 4.080.
2. Solid waste disposal, subject to the approval of the Humphreys County Environmentalist, the Tennessee Department of Environment and Conservation, the McEwen Board of Mayor and Aldermen, and the McEwen Board of Zoning Appeals.

D. Uses Prohibited: Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations: All uses permitted in the I-2, Heavy Industrial District shall comply with the following requirements except as provided in Article VII. (nonconforming uses)

1. Minimum Lot Size: No minimum lot size is required in the I-2 District.
2. Minimum Yard Requirements:

Front Setback	50 feet
Side	20 feet
Rear	20 feet
3. Maximum Lot Coverage: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.
4. Height Requirements: Buildings shall not exceed eighty (80) feet in height, except as provided in Article VII, Section 7.050.
5. Parking Space Requirements: As regulated in Article IV, Section 4.010.

F. Performance Standards for Solid and Hazardous Waste Landfill and Incinerators.

No person shall own or maintain a solid or hazardous waste landfill or incinerator within McEwen until a permit has been secured from the McEwen Board of Zoning Appeals and Tennessee Department of Environment and Conservation. The Board shall base their decision on the following criteria:

1. The type of waste suitable for Class 1 landfills as defined by the Solid Waste Management Act 1991. No special waste exception.
2. The method of disposal.

3. The impact of the noise and odor that the landfill may create.
4. The impact on local property values.
5. The economic impact of the project.
6. The compatibility with existing development.
7. The Public Works Department must certify that existing and proposed access roads to a proposed sanitary landfill site are capable of supporting the size and volume of traffic generated by the operation of the landfill and will have no adverse impact on the traveling public using these access roads.
8. No sanitary landfill shall be located on property where sinkholes, caves, or caverns exist on or near the proposed landfill site.
9. No sanitary landfill shall be located on property where a spring or springs emanate from or under the proposed landfill site.
10. No sanitary landfill shall be located on property with limestone bedrock and fissures, cracks, and openings in the ground.
11. No sanitary landfill shall be located in the proximity of either natural gas transmission pipelines or hazardous chemical pipelines.
12. No sanitary landfill shall be located in the drainage shed or water shed of a known tributary of a stream of water which supplies water to any water authority or water district.
13. Any other factors which may affect the public health, safety, or welfare.

ARTICLE VI, DELETED AND REPLACED BY ORDINANCE 254, MAY 12, 2009

ARTICLE VI

PROVISIONS GOVERNING FLOODPLAIN DISTRICTS

Section

- 6.010 Statutory Authorization, Findings of Fact, Purpose and Objectives
- 6.020 Definitions
- 6.030 General Provisions
- 6.040 Administration
- 6.050 Provisions for Flood Hazard Reduction
- 6.060 Variance Procedures
- 6.070 Legal Status Provisions

6.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

A. Statutory Authorization. The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of McEwen, Tennessee, Mayor, and Board of Aldermen, do ordain as follows:

B. Findings of Fact:

1. The City of McEwen, Tennessee, Mayor, and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of the City of McEwen, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

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

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities.

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.
4. Control filling, grading, dredging and other development which may increase flood damage or erosion.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

D. Objectives. The objectives of this Article are:

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

6.020 DEFINITIONS

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

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Article, shall conform to the following:

- (1) Accessory structures shall only be used for parking of vehicles and storage.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (4) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
- (5) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

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

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see **"Special Flood Hazard Area"**.

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1) percent annual chance flood.

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

"Building" see **"Structure"**.

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

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

"Emergency Flood Insurance Program" or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or

ordinance adopted by the community as a basis for that community's participation in the NFIP.

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

"Existing Structures" see **"Existing Construction"**.

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

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

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

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

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Flood Prone Area" means any land area susceptible to being inundated by water from any source (see definition of **"Flood" or "Flooding"**).

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

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

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

"Flood-Related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

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

"Flood-Related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

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

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

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

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary

- of the Interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - (3) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (4) Individually listed on the City of McEwen, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - (a) By the approved Tennessee program as determined by the Secretary of the Interior or
 - (b) Directly by the Secretary of the Interior.

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

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

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

"Mean-Sea-Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Article, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

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

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

"100-Year Flood" see **"Base Flood"**.

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

"Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

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

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

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

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

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

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one

hundred-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Article, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Article.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other

development without the elevation certificate, other certification, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

6.030 GENERAL PROVISIONS

- A. Application. This Article shall apply to all areas within the incorporated area of the City of McEwen, Tennessee.
- B. Basis for Establishing the Areas of Special Flood Hazard. The Areas of Special Flood Hazard identified on the City of McEwen, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), **(Community No. 470308, Community Panel Numbers 0075, 0100, 0182, 0184, and 0225, dated, September 25, 2009)**, along with all supporting technical data, are adopted by reference, and declared to be a part of this Article.
- C. Requirement for Development Permit. A development permit shall be required in conformity with this Article prior to the commencement of any development activities.
- D. Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations.
- E. Abrogation and Greater Restrictions. This Article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Article conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.
- F. Interpretation. In the interpretation and application of this Article, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.
- G. Warning and Disclaimer of Liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City of McEwen, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Article, or any administrative decision lawfully made hereunder.
- H. Penalties for Violation. Violation of the provisions of this Article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this article or fails to comply with any of its requirements shall, upon adjudication,

therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of McEwen, Tennessee from taking such other lawful actions to prevent or remedy any violation.

6.40 ADMINISTRATION

- A. Designation of Ordinance Administrator. The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Article.
- B. Permit Procedures. Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application Stage

- a. Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Article.
- b. Elevation in relation to mean-sea-level to which any nonresidential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Article.
- c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in Section 6.050, Subsections A and B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean-sea-level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest

floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data.

Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. Duties and Responsibilities of the Administrator. Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Article have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Section 6.040, Subsection B.
7. Record the actual elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Section 6.040, Subsection B.

8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Section 6.040, Section B.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A, on the City of McEwen, Tennessee FIRM meet the requirements of this Article.
11. Maintain all records pertaining to the provisions of this Article in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Article shall be maintained in a separate file or marked for expedited retrieval within combined files.

6.050 PROVISIONS FOR FLOOD HAZARD REDUCTION

- A. **General Standards.** In all areas of special flood hazard, the following provisions are required:
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.
 2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
 3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
 5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
9. Any alteration, repair, reconstruction, or improvements to a building that is in compliance with the provisions of this Article, shall meet the requirements of "new construction" as contained in this Article.
10. Any alteration, repair, reconstruction, or improvements to a building that is not in compliance with the provision of this Article, shall be undertaken only if said non-conformity is not further extended or replaced.
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Section 6.050, Subsection B.
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

B. Specific Standards. In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Section 6.050, Subsection A, are required:

1. Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 6.020). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both

sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

2. Nonresidential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Section 6.020). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Section 6.040, Subsection B.

3. Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - i. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - ii. The bottom of all openings shall be no higher than one (1) foot above the finished grade.
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Section 6.050, Subsection B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - i. In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - ii. In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Section 6.020).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Section 6.050, Subsections A and B.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - i. Be on the site for fewer than one hundred-eighty (180) consecutive days;
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - iii. The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals.

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Section 6.050, Subsection E).

C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated

Located within the Special Flood Hazard Areas established in Section 6.030, Subsection B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris, or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements, or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of McEwen, Tennessee, and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 6.050, Subsections A and B.

D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Special Flood Hazard Areas established in Section 6.030, Subsection B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided

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

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 6.050, Subsections A and B.

E. Standards for Streams Without Established Base Flood Elevations and Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Section 6.030, Subsection B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2, below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Section 6.050, Subsections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 6.020). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 6.040, Subsection B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 6.050, Subsection B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of McEwen, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 6.050, Subsections A and B. Within approximate A Zones, require that those subsections of Section 6.050, Subsection B, dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

F. Standards for Areas of Shallow Flooding (AO and AH Zones)

Located within the Special Flood Hazard Areas established in Section 6.030, Subsection B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Section 6.050, Subsections A and B, apply:

1. All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 6.050, Subsection B.
2. All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Article and shall provide such certification to the Administrator as set forth above and as required in accordance with Section 6.040, Subsection B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

G. Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Section 6.030, Subsection B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Section 6.040 and Section 6.050, shall apply.

H. Standards for Unmapped Streams

Located within the City of McEwen, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Sections 6.040 and 6.050.

6.060 VARIANCE PROCEDURES

A. Municipal Board of Zoning Appeals

1. Authority. The City of McEwen, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Article.
2. Procedure. Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.
3. Appeals: How Taken. An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Article. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of \$50 (fifty dollars) for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers. The Municipal Board of Zoning Appeals shall have the following powers:
- a. Administrative Review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Article.
 - b. Variance Procedures. In the case of a request for a variance the following shall apply:
 - i. The City of McEwen, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Article.
 - ii. Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Article to preserve the historic character and design of the structure
 - iii. In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Article, and:
 - a. The danger that materials may be swept onto other property to the injury of others.
 - b. The danger to life and property due to flooding or erosion.
 - c. The susceptibility of the proposed facility and its contents to flood damage.
 - d. The importance of the services provided by the proposed facility to the community.
 - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent use.
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

- j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- iv. Upon consideration of the factors listed above, and the purposes of this Article, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Article.
- v. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Section 6.060, Subsection A.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

6.070 LEGAL STATUS PROVISIONS

- A. Conflict with Other Ordinances. In case of conflict between this Article or any part thereof, and the whole or part of any existing or future Ordinance of the City of McEwen, Tennessee, the most restrictive shall in all cases apply.
- B. Severability. If any section, clause, provision, or portion of this Article shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Article which is not of itself invalid or unconstitutional.
- C. Effective Date. This Article shall become effective immediately after its passage, in accordance with the Charter of the City of McEwen, Tennessee, and the public welfare demanding it.

Article VII

EXCEPTIONS AND MODIFICATIONS

Section

- 7.010 Scope
- 7.020 Nonconforming Uses
- 7.030 Nonconforming Buildings in Floodplain Districts
- 7.040 Bulk and Lot Size Noncompliance
- 7.050 Exceptions to Height Limitations
- 7.060 Lots of Record
- 7.070 Exceptions to Front Setback Requirements
- 7.080 Absolute Minimum Lot Size
- 7.090 Zero Lot Line Duplex Requirements
- 7.100 Development Standards for Transmission and Communication
Towers and Stations

7.010 Scope. Article VII of this ordinance is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in Article IV and Article V.

7.020 Nonconforming uses. The districts established in this ordinance (as set forth in district regulations in Article V) are designed to guide the future use of land in McEwen, Tennessee by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible, and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this Article are therefore established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict any expansion of such uses beyond the site which the use occupied upon the effective date of this ordinance.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this Article are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance. These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

7.020.1 Provisions Governing Nonconforming Uses

A. Applicability. The provisions of this chapter are applicable to all uses which are not permitted within the districts in which they are located. Additionally, buildings and other structures located within the floodplain are considered within the regulations of nonconforming uses.

7.020.2 Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) months period, and not discontinued until completion except for reasons beyond the builder's control. In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a building permit, then such permit shall automatically lapse, and the provisions of this ordinance shall apply.

7.020.3 Repairs and Alterations. Nothing in this Article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

7.020.4. Zone Lot Containing Nonconforming Use. A zone lot containing a nonconforming use shall not be reduced in area except to comply with Section 7.023.

7.020.5 Continuation of Nonconforming Use. Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use (See Section 7.026) is undertaken.

7.020.6 Change of Nonconforming Use

1. General Provisions. For the purpose of this chapter, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use. A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land With Incidental Improvements. In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.
3. Nonconforming To Conforming Use. Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

7.020.7 Expansion of Nonconforming Uses

1. General Provisions. Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions as set out below.
2. Land With Incidental Improvements. In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.
3. Adequate Space for Expansion. No expansion of any nonconforming use shall infringe upon or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance.
4. Expansion Limited. Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to operate to permit expansion of any nonconforming use through the acquisition and development of additional land.
5. Expansion Upon Land Subject to Flood. No expansion of any nonconforming use shall violate the provisions of Article VI.

7.020.8 Damage or Destruction

1. General Provisions. Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve any actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.
2. Change in Use Prohibited. No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use (as regulated in Section 7.026 above) to other than a permitted use.

3. Land in Use Prohibited. In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined by this ordinance) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structure or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall therefore be used only for a conforming use.
4. Infringement Upon Open Space Restricted. No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this ordinance.
5. Reconstruction of Flood Damaged Property. The provisions of Article VI shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within floodplain districts.

7.020.9 Discontinuance (Amended by Ordinance #274, August 27, 2012). Pursuant to 13-7-208 of the *Tennessee Code*, when a nonconforming Commercial, Industrial, or other business use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of thirty (30) months, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

7.030 Special Provisions Governing Nonconforming Buildings Within Floodplain Districts

7.030.1 General Provisions. In all districts or portions thereof, which extend into the floodplain districts as established by Article VI, any building or other structure or use which is not permitted by the floodplain district provisions shall become nonconforming upon the effective date of this ordinance, or subsequent amendment as applicable.

7.030.2 Enlargement of Buildings Within the Floodplain. A building or other structure which is nonconforming by reason of location within the floodplain shall not be enlarged or expanded but may be altered or repaired as set forth in Article VI or as may be expressly authorized by the Board of Zoning Appeals in order to incorporate flood-proofing measures provided that such alteration will not increase the level of the 100-year flood or extend the normal life of such nonconforming building or structure.

7.030.3 Special Provisions Governing Reconstruction of Building or Structure Located within the Floodplain District. Within the floodplain district any building or structure in existence prior to the effective date of this ordinance

that is hereafter destroyed or substantially damaged by any means may be reconstructed and used as before only if the following requirements are met.

- A. The reconstruction does not exceed the volume and external dimensions of the original structure or does not offer any greater obstruction to the flow of floodwaters than did not original structure.
- B. Nonresidential structures may be reconstructed only if the lowest flood (including basement) elevation is at least one (1) foot above the level of the 100-year flood or the structure is flood proofed (in accordance with the requirements of Article VI to a height of at least one (1) foot above the level of the 100-year flood).
- C. Residential structures may be reconstructed only if the lowest flood (including basement) of the structure is elevated to a point at least one (1) foot above the level of the 100-year flood.
- D. That no reconstruction or alteration permitted hereinunder shall result in any increase in the level of the 100-year flood.

7.040 Bulk and Lot Size Noncompliance

- 7.040.1 General Provisions. The provisions of this chapter shall control buildings and other structures which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.
- 7.040.2 Continuation of Use. The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this article.
- 7.040.3 Repairs and Alterations. Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Section 7.040.4 through 7.040.6.
- 7.040.4 Enlargements or Conversions. A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of a building or other structure or parcel of any portion thereof.
- 7.040.5 Buildings Noncomplying as to Lot Area. If a building does not comply with the applicable district regulations on lot area per dwelling unit (lot area being smaller than required for the number of dwelling units on such zone lot) such building may be converted (except when in the floodplain district), provided that the deficiency in the required lot area is not thereby increased (for example, a noncomplying building on a lot of 3,500 square feet, which

before conversion required a lot area of 5,000 square feet and was, therefore, deficient by 1,500 square feet, can be converted into any combination of dwelling units allowed in the zoning district in question requiring a lot area of no more than 5,000 square feet).

7.040.6 Damage or Destruction of Noncomplying Uses. A noncomplying building which is damaged or destroyed may be reconstructed, provided that the reconstruction will not either create a new noncompliance or increase the degree of noncompliance of a building or structure or parcel or portion thereof.

7.050 Exceptions to Height Limitations. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts and aerials.

7.060 Lots of Record. The following provisions shall apply to all existing lots of record:

- A. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the Board of Zoning Appeals.
- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

7.070 Exceptions to Setback Requirements. The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of

the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

7.080 Absolute Minimum Lot Size. No existing lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall comply. This section shall not apply when a portion of the lot is acquired for a public purpose.

7.090. Zero Lot Line Duplex Requirements. Zero lot line duplex dwellings shall be subject to the following requirements:

7.090.1 Density Requirements. The density of the development permitted shall be determined by the lot area required in an R-2 or R-3 District, for a duplex or two-family structure or building type.

7.090.2 Parcel (Fee-Simple Lot) Requirements Area and Width Requirements. The Lot area and lot width of any parcel (fee-simple lot) may be variable provided that no parcel shall be created which contains less than one half (1/2) of the required lot area per structure of building type as stipulated in 7.090.1 above.

- A. **Coverage Requirements.** On any individual parcel of land, the area occupied by all buildings or structures thereon including accessory structures if any, shall not exceed fifty (50) percent of said parcel. All accessory structures shall be governed by the provisions of Section 3.100 and Article V of this zoning ordinance.
- B. **Front, Rear, and Side Yard Requirements.** The front and rear yard setback requirements shall be as specified in the R-2 and R-3 Zoning Districts of the zoning ordinance. Where required, side yard setbacks per each building type shall also follow the R-2 and R-3 Zoning District Regulations. Such side yard setbacks are required at the end of each individual building or structure located within the development.
- C. **Height Requirements.** All developments utilizing zero side yards shall contain no more than two (2) stories. The height requirements in Article V shall be followed.

7.090.3 Other Development Requirements

- A. The exterior material of zero lot line dwellings shall be of such type and quality that they do not create an adverse effect on adjacent dwellings.
- B. The side yard setbacks may be zero on any parcel provided that the parcel(s) adjacent to that (those) side yard(s) is (are) held under the same ownership at the time of initial construction.

- C. No zero-side yard shall be adjacent to any public or private right-of-way, nor shall it be adjacent to any parcel of land not being approved by the Board of Zoning Appeals for a zero-side yard development.
- D. No portion of a dwelling or architectural features of a structure shall project over any property line.
- E. Where the same interior property line(s) is (are) utilized for the zero-side yard construction of any dividing structure(s), such dividing structure(s) shall consist of double walls separated by a minimum air space of two (2) inches.
- F. Where the same interior property line(s) is (are) utilized for the construction of any zero side yard structures, all the provisions of the Standard Building Code shall be met, and all such fire walls shall have a rating as required by the McEwen Fire Department.
- G. All residential structures must contain a fire wall between the various dwelling units, from the footing to the peak of the roof of not less than two hours fire rating. The fire wall must be bisected by a line dividing each dwelling unit so that one-half of the fire wall is on each parcel.

7.090.4 Parking and Access Requirements

- A. There shall be two (2) parking spaces per individual parcel subdivided, and special attention shall be directed to providing the required spaces in a manner which will minimize points of access onto the public road serving the development.
- B. Every dwelling unit shall be located on a parcel fronting or adjacent to a public street. All structures shall be so located on the various parcels so as to provide safe, convenient access for the provision of adequate fire protection to such parcels.

7.090.5 Utilities Requirements. All zero-side yard residential developments shall be served by public water and sanitary sewer services. Each parcel shall be served by separate utilities.

7.090.6 Location Requirements. In authorizing any development anticipated herein, as well as fully considering the criteria cited in Section 8.080 of the zoning ordinance, the Board of Zoning Appeals shall consider:

1. The nature, type, density, etc., of development adjoining and within the immediate vicinity of the proposed activity.

2. The location of the development with regard to major streets, and especially in regard to McEwen's Major Thoroughfare Plan.
3. The availability of all public utilities (specifically including public sewer).
4. The adequacy of fire protection facilities.
5. The adequacy of deed covenants designed to assure protection of potential purchasers, surrounding owners, and the community at large.

7.090.7 Contents of Deed Covenants. At the time of presentation of any final plat involving use of the procedure contained within this section, deed covenants shall also be prepared, presented and recorded which at a minimum provide:

1. An agreement covering the status, including the ownership, maintenance, etc., of the common wall separating the units.
2. Adequate language to assure proper maintenance, etc., of any portion of the structure where maintenance must be shared (ex. common roof).
3. If the correction of a maintenance problem incurred in the dwelling unit on one parcel necessitates construction work or access on the dwelling unit of the other parcel, either parcel owner shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions.
4. Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which originally approved. Such language shall so specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner which would have the effect of negating the unified plan under which original approval was granted and language indicating that the purchaser of any such parcel understands that in no instance will any such parcel be viewed as a separate independent parcel for zoning purposes.
5. Adequate language covering any and all cross easements as are necessary to assure the proper maintenance of all utility services.
6. If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it and if the other owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a

larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions. Either parcel owner shall have an easement on the property of the other for the purpose of reconstruction and protection of the remaining unity from the elements.

7.090.8 Subdivision Regulations. All the requirements of the McEwen Subdivision Regulations shall be met as well as the granting of a special exception by the Board of Zoning Appeals allowing said zero side yard developments, before the development may qualify as being legally approved. Preliminary subdivision plats shall designate no more than twenty (20) percent of their lots as zero lot line dwellings. Moreover, both preliminary and final subdivision plats shall designate specific lots as being "zero lot-line developments lots", and the planning commission shall approve these locations.

7.090.9 Requirements for Review and Approval. No development anticipated by the language contained herein shall be undertaken without an express grant of approval by the Board of Zoning Appeals acting under authority granted to the Board for the approval of special exceptions. Moreover, as stated above, the final subdivision plat of the project shall be submitted to and approved by the planning commission, as well as the required review of the entire project as a special exception by the Board of Zoning Appeals under Section 8.080 of the zoning ordinance.

7.100. Development Standards for Transmission and Communication Towers and Stations.

It is the intent of this section to avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, and maintained while also ensuring that such towers are compatible with the surrounding land uses. The purpose of this section is also to promote and encourage shared use/collocation of such towers and antenna support structures as a primary option rather than the construction of single-use towers. This section shall not apply to any type of two-way radio equipment, towers, or antenna mast erection owned and operated by the City for the purpose of two-way radio communications, nor shall it apply to pipe or push up pipe antenna erected on private residential dwellings or on property and/or business places located within the corporate limits for the purpose of two-way radio communications or television or radio reception as so long as these types of communications and/or reception equipment are in compliance with the rules and regulations of the Federal Communications Commission (FCC).

(A) **Standards for Telephone, Telegraph, and Communications Transmitter Stations and Towers.** All transmitter stations, including towers and operating equipment, located within the zoning jurisdiction shall adhere to the following standards:

1. All towers shall be constructed in accordance with Electronic Industries Association ("EIA") Standard 222E-1996 utilizing a wind rating of eighty miles per hour (80 MPH) plus ice loading for McEwen, Tennessee. Each application for a building permit shall be accompanied by a certification by a professional engineer licensed in the State of Tennessee and competent in such design.
2. All towers shall be set back from all property lines and leasehold lines a distance that is equal to:
 - a. for a guyed tower, fifty percent (50%) of its maximum height
 - b. for a self-supporting tower, one hundred percent (100%) of its maximum height.
3. Fencing. Tower and equipment, including guyed supports, shall be enclosed with a fence no lower than eight (8) feet in height. Access gates will be locked at all times when the site is not occupied.
4. Screening. Where the tower site is in, abuts or contiguous to any Residential District there shall be provided a continuous solid screening which shall be of such plant materials as will provide a reasonable year-round evergreen screening. Screening as required shall be not less than four (4) feet in height at the time of planting and shall be permanently maintained.
5. Maintenance. The entire site shall be maintained in accordance with Municipal Codes.

(B) **Application Requirements**. An application to develop a transmission and communications tower shall include the following:

1. All site plan information as otherwise required in the Zoning Ordinance which is deemed applicable by the Planning Commission.
2. A "Determination of No Hazard" issued by the Federal Aviation Administration and required Federal Communications Commission permit information.
3. Names, addresses, and telephone numbers of all owners and operators of other communications/transmission towers or support structures within a one-half (½) mile radius of the proposed new tower site, including city-owned property.
4. An affidavit attesting that the applicant has made diligent, but unsuccessful, effort to install or collocate the applicant's telecommunications facilities on city-owned towers or useable antenna support structures located within a one-half (½) mile radius of the proposed tower site.
5. An affidavit attesting that the applicant has made diligent, but unsuccessful, effort to install or collocate the applicant's telecommunications facilities on

towers or useable antenna support structures owned by other persons located within a one-half ($\frac{1}{2}$) mile radius of the proposed tower site.

6. Written technical evidence from an engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or useable antenna support structures owned by other persons located within one-half ($\frac{1}{2}$) mile radius of the proposed tower site.

Article VIII
ADMINISTRATION AND ENFORCEMENT

Section

- 8.010 Administration of the ordinance
- 8.020 The enforcement officer
- 8.030 Building permits
- 8.040 Temporary use permits
- 8.050 Certificate of occupancy
- 8.060 Board of Zoning Appeals
- 8.070 Variances
- 8.080 Procedure for authorizing special exceptions
- 8.090 Amendments to the ordinance
- 8.100 Penalties
- 8.110 Remedies
- 8.120 Separability
- 8.130 Interpretation
- 8.140 Effective date

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

8.020. The enforcement Officer. The provision of this ordinance shall be administered and enforced by the City Building Inspector/Zoning Administrator. In performance of administering and enforcing this ordinance, he shall:

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

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

8.030. Building permits. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, or to change the use of a building or structure, or to commence the filling of land without a permit therefore, issued by the Building Inspector/Zoning Administrator. If said excavation or construction is begun without a proper building permit the fee shall be double or twice the original cost of the permit if legal compliance had been obtained as is required. No Building Permit shall be issued by the Building Inspector/Zoning Administrator except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this ordinance.

- A. Application: Application for a Building Permit shall be made in writing to the Building Inspector/Zoning Administrator on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following:
 - 1. The actual shape, location, and dimensions of the lot to be built upon.
 - 2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
 - 3. The existing and intended use of all such buildings or other structures.
 - 4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- B. Fee: The McEwen Board of Mayor and Aldermen shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the office of the Building Inspector/Zoning Administrator and City Hall. Only the Board of Mayor and Aldermen may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.
- C. Issuance of Permit: If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this

ordinance, the Building Inspector/Zoning Administrator shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector/Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as a waiving of any provisions of this ordinance.

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

8.040. Temporary Use Permits. It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the City Building Inspector/Zoning Administrator, as provided for in Article IV, Section 4.030 of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector/Zoning Administrator on the form provided for that purpose. A schedule of fees shall be established by the McEwen Board of Mayor and Aldermen. Such schedule shall be posted in the office of the Building Inspector/Zoning Administrator and City Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

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

8.060. Board of Zoning Appeals. In accordance with 13-7-205 through 13-7-207 of the Tennessee Code Annotated, the McEwen Municipal Planning Commission shall serve as the McEwen Board of Zoning Appeals.

- A. Procedure: Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.
- B. Appeals to the Board: An appeal to the McEwen Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of

the Building Inspector/Zoning Administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Inspector/Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appeals were taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

- C. Stay of Proceedings: An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector/Zoning Administrator certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Inspector/Zoning Administrator, and on due cause shown.
- D. Appeal to the Court: Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.
- E. Powers of the Board: The Board of Zoning Appeals shall have the following powers:
1. Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Building Inspector/Zoning Administrator or other administrative official in the carrying out or enforcement of any provision of this ordinance.
 2. Special Exceptions: To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.
 3. Variations: To hear and decide applications for variances from the terms of this ordinance.

8.070. Variations. The purpose of this 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 variations shall be used only

where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

- A. Application: After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.
- B. Fee: A fee of fifty (50) dollars payable to the City of McEwen shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.
- C. Hearings: Upon a receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.
- D. Standards for Variances: In granting a variance, the Board shall ascertain that the following criteria are met:
 - 1. Variances shall be granted only where special circumstances or conditions, fully described in the finding 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. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
 - 5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying, therefore.

8.080. Procedure for Authorizing Special Exceptions. The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this

ordinance, or whether a review is requested by the Building Inspector/Zoning Administrator to determine whether a proposed use is potentially noxious, dangerous or offensive.

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

- B. Criteria for Review: Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning all the following where applicable:
 - 1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - 2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
 - 3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - 4. Utilities, with reference to locations, availability, and compatibility.
 - 5. Screening and buffering with reference to type, dimensions and character.
 - 6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
 - 7. Required yard and other open space.
 - 8. General compatibility with adjacent properties and other properties in the district.

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

- D. Validity of Plans: All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.
- E. Time Limit: All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.
- F. **Special Conditions for Single Detached Dwellings in the C-1 (Commercial Service) District: Added by Ordinance #306, August 13, 2019**

In regard to properties located within the C-1, Commercial Service District, located on Hwy 70, the major arterial in the corporate limits, that were originally constructed to serve in a residential capacity that have been converted to a commercial use, and, should the owner desire converting the property back to a residential use, the City of McEwen, in keeping with conformance to this ordinance, has placed certain conditions on such uses as described below:

1. Only structures located on Hwy 70 and originally constructed as single detached residences, or portion thereof, may be considered for conversion from commercial back to residential use.
2. The buffering requirements, as required in Article III, Section 3.110 shall not be required for the subject lot or surrounding lots unless peculiar conditions deem otherwise as determined by the Board of Zoning Appeals.
3. The property owner shall sign a legal document acknowledging that the structure is located in a commercial zone and all surrounding existing or proposed commercial uses will be conducting business that may infringe on the residential use of this structure. The City of McEwen shall be held harmless to any infringement on this residential use.
4. In conversion of the property back to residential, the removal of certain commercial characteristics, such as but not limited to, commercial-grade illumination, signage, parking lots, commercial-grade refuse containers, etc., shall be left up to the discretion of the Board of Zoning Appeals in determination to what percentage or degree of conversion the owner shall comply to.

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

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the McEwen Municipal Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within the thirty (30) days, it shall require the favorable vote of a majority of the Board of Mayor and Aldermen to become effective. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

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

Before enacting an amendment to this ordinance, the Board of Mayor and Aldermen shall hold a public hearing thereon, at least fifteen (15) days' notice of the time and place of which shall be published in a newspaper of general circulation in the City of McEwen.

- A. **Fee:** A fee of one hundred (100) dollars due and payable at the time of filing of the petition shall be posted with requests to amend the zoning ordinance. The fee is to be used by the City of McEwen to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance.

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

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

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

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

8.140. Effective date. This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the McEwen Municipal Planning Commission.

Clark Hinrichs
Chairman, McEwen Municipal Planning
Commission

Date 09-26-96

Date of Public Hearing.

Nov. 12, 1996

Approved and adopted by the Board of Mayor and Aldermen of the City of McEwen, Tennessee.

John N. Winstead
Mayor, McEwen, Tennessee

11-12-96
Date

ATTEST:

Jane M. Sparks
City Recorder

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

8.140. Effective date. This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the McEwen Municipal Planning Commission.

Clark Heinrichs
Chairman, McEwen Municipal Planning
Commission

09-26-96
Date

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ART. VIII-10

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