

**MUNICIPAL ZONING ORDINANCE FOR THE
CITY OF BROWNSVILLE, TENNESSEE**

2026



**PREPARED BY THE
BROWNSVILLE MUNICIPAL-REGIONAL
PLANNING COMMISSION**



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CHAPTER 1: GENERAL PROVISIONS

1.01 TITLE, PURPOSE, AND LEGISLATIVE ENACTMENT

A. Long Title

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 Brownsville, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings and other structures for trade, industrial, residence, recreation, public activities and similar purposes to include a special district for area subject to flooding; to provide regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

B. Short Title

This ordinance may be cited as the Zoning Ordinance of Brownsville, Tennessee. The map portion may be cited separately as the Zoning Map of Brownsville, Tennessee.

C. Repeal

The existing zoning regulations of the City of Brownsville, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of any action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this Ordinance.

D. Legislative Enactment

WHEREAS, Sections 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 Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the health, safety morals or general welfare of the City to enact such an Ordinance, and

WHEREAS, the Board of Mayor and Aldermen, pursuant to the provisions of Section 13-4-101 of the Tennessee Code Annotated, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote the health and general welfare; to provide adequate light and air; the prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate uses for the land throughout the municipality, and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate uses for the land throughout the municipality, and

WHEREAS, the Board of Mayor and Aldermen has given due public notice of hearings related to zoning districts, regulations and restrictions, and has held public hearings, and

WHEREAS, all the requirements of Sections 13-7-201 through 13-7-210 of the Tennessee Code Annotated, with regard to the preparation of the report of the Planning Commission and subsequent action of the Board of Mayor and Aldermen have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BROWNSVILLE, TENNESSEE:

E. Intent and Purpose

1. This Ordinance is enacted pursuant to Title 13 of the Tennessee Code Annotated for the following purposes:
2. To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
3. To divide the City into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing and other specified uses;
4. To protect the character and maintain the stability of residential, business, commercial and manufacturing areas within the City, and to promote the orderly and beneficial development of such areas;
5. To provide adequate light, air, privacy, and convenience of access to property;
6. To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health;
7. To establish building lines and the location of buildings designed for residential, business, commercial, manufacturing or other uses within such lines;
8. To fix reasonable standards to which buildings or structures shall conform;
9. To prohibit uses, buildings or structures that are incompatible with the character of development or the permitted uses within specified zoning districts.
10. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;

11. To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;
12. To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare;
13. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district, by regulating the use and the bulk of buildings in relation to the land surrounding them;
14. To conserve the taxable value of land and buildings throughout the City;
15. To provide the gradual elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
16. To provide for the condemnation of such nonconforming buildings and structures and of land as the Board of Mayor and Aldermen shall determine is necessary or appropriate for the rehabilitation of the area blighted by such buildings or structures;
17. To define and limit the powers and duties of the administrative officers and bodies as provided herein;
18. To prevent construction in areas designed as flood hazard areas unless suitably protected.
19. These general purposes include the specific purposes stated in the various chapters throughout this ordinance.

1.02 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

A. Rules for Construction of Language

In the construction of this Ordinance, the rules and definitions contained in this Chapter shall be observed and applied, except when the context clearly indicates otherwise:

1. The particular shall control the general.
2. The word "shall" is always mandatory and not discretionary.
3. The word "may" is permissive.
4. The word "lot" shall include the words "piece" or "parcel".
5. The word "building" or "structure" includes all other structures, or parts there of, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
6. In the case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration or table, the text shall control.

7. The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a conditional use by special permit pursuant to 9.06 of this Ordinance, and all other applicable provisions.
8. Words used in the present tense shall include the future, and words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary.
9. All public officials, bodies and agencies to which reference is made are those of the City of Brownsville, Tennessee.

B. Definitions

Except where definitions are specifically included in various articles and sections, words in the text or tables of this Ordinance shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail. In any case, the Board of Zoning Appeals shall have the right to interpret the definition of any word.

Accessory - An activity or structure that is customarily associated with and is appropriately incidental and subordinate to a principal activity and/or structure and located on the same zone lot.

Activity - The performance of a function or operation which constitutes the use of land.

Alley - A public way intended to provide only secondary vehicular access to abutting properties.

Building - A structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of a building. Where roofed structures are separated from each other by party walls having no unprotected openings, each portion so separated shall be considered a separate building.

Building Height - The vertical distance from the highest point on a structure, excepting belfries, spires, flagpoles or antenna to the average ground level of the grade where the walls or other structural elements intersect the ground.

Bulk - Describes the size of buildings or other structures and their relationship to each other and to open areas and lot lines, and therefore includes:

1. The size (including height and floor area) of buildings or other structures,
2. The area of the zone lot upon which a building is located, and the number of dwelling units within residential buildings in relation to the area of the zone lot,
3. The location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other structures, and
4. All open areas relating to buildings or other structures and their relationship thereto.

Clinic - An establishment where persons are given medical, dental or surgical treatment by one but not more than four physicians or dentists with no patients lodged overnight.

Clinic, Small Animal - An establishment where small animals, which can usually be identified as pets, are medically treated or groomed and boarded for periods of less than one week, and where the entire operation of the establishment is restricted to the enclosed portion of the structure in use.

Completely Enclosed - Refers to a building or other structures having a roof, and separated on all sides from the adjacent open area or from other buildings or structures, by party walls or exterior walls, pierced only by windows or entrance and exit doors normally provided for persons, goods or vehicles.

Conditional Use - A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as conditional uses, if specific provision for such use is made in this Ordinance.

Dwelling:

Dwelling, Attached - A building containing not more than two dwelling units, attached at the side or sides in a series of three or more principal buildings, each containing not more than two dwellings units. At points of attachment, such buildings shall be separated from each other by fire walls extending from footings through roofs without openings which would permit the spread of fire from one building to another. Such buildings shall each have a separate lot with dimensions meeting regulations for the district, or be so located on land in the same ownership that individual lots meeting district requirements could be provided, in which case dimensions of such land shall not be reduced below those required for provisions of separate lots. The term-attached dwelling is intended to apply to townhouses, patio or atrium houses, or any form however termed which conforms to this definition.

Dwelling, Manufactured Home – Means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of the U.S. and State of Tennessee Code except the size requirements and with respect to which the manufacturer voluntarily files a certification required and complies with the standards established; and except that such term shall not include any self-propelled recreational vehicle.

Dwelling, Mobile Home - (See TCA 68-126-202)ⁱ

Dwelling, Modular Home - (See TCA 68-126-202)ⁱⁱ

Dwelling, Multi-Family - A building containing two or more dwelling units. The term includes two-family dwellings (duplexes), triplexes, quadplexes, cooperative apartments, condominiums and the like. For purposes of these regulations, regardless of how rental units are equipped, any multi-family dwelling in which units are available for rental partly on a monthly basis and partly for a shorter time period, but with less than thirty (30) percent of the living units being occupied on a less-than-monthly basis, shall be considered a semi-transient residential activity.

Dwelling, Single-Family - A building containing only one dwelling unit. The term is general, including such specialized forms as single-family detached, single-family semi-detached and single-family attached houses (town houses, patio and atrium houses and the like if containing only one family). For regulatory purposes, the term is not to include mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of portable or temporary housing.

Dwelling, Single-Family Detached - A single-family dwelling entirely separated from structures on adjacent lots.

Dwelling, Townhouse - A townhouse dwelling is an attached single-family dwelling constructed in a row of three (3) to eight (8) single-family dwellings, each dwelling being separated from the adjoining dwellings in each story by adjoining fire walls, without openings extending at least from the footing through the roof, as hereinafter set forth and each dwelling having independent access to the exterior in the ground story.ⁱⁱⁱ

Dwelling, Two-Family - A detached residential building containing two dwelling units designed for occupancy by not more than two families.

Dwelling Unit - A room or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

Family - One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five persons.

Floor Area - The total of the gross areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof, without walls, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto required in this Ordinance.

2. In the case of non-residential facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

Net Floor Area - For the purpose of determining required parking spaces, the net floor area is total floor area within the perimeter of the inside walls of the building deducting for interior walls, hallways, stairs, closets, storage and similar features including other areas such as those for the preparation of food and drink, restrooms, waiting rooms and areas not considered principle activity areas.^{iv}

Floor Area Ratio - The total floor area on a zone lot, divided by the lot area of that zone lot. (For example, a building containing twenty thousand (20,000) square feet of floor area on a zone lot of ten thousand (10,000) square feet has a floor area ration of 2:0).

Home Occupation - An occupation conducted in a dwelling unit, provided that:

1. No one other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than fifteen (15) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
4. No home occupation shall be conducted in any accessory building;
5. The sale of merchandise in connection with a home occupation shall not exceed 25% of the said home occupation.
6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;
7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.

Incidental Alterations

1. Changes or replacements in the nonstructural parts of a building or other structure, without being limited to the following examples:
 - A Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;
 - B A minor addition to the exterior of a residential building, such as an open porch;
 - C Alterations of interior non-load-bearing partitions in all other types of building or other structures;

- D Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits; or
- 2. Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
 - A Making windows or doors in exterior walls;
 - B Replacement of building facades having non-load-bearing capacity;
- C Strengthening the floor load-bearing capacity, in not more than ten (10) percent of the total floor area, to permit the accommodation of specialized machinery or equipment.

Land With Incidental Improvements - A tract of land which contains improvements including buildings or other structures having a total assessed valuation of five thousand dollars (\$5,000) or less.

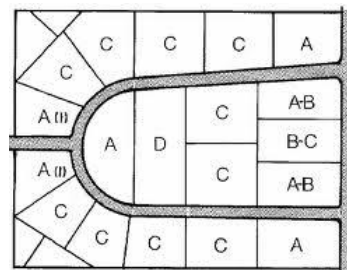
Landscaping - The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials provided that terraces, fountains, retaining walls, street furniture sculptures, or other art objects, and similar accessory features may be included as landscaping if integrally designed.

Lot - For purposes of this ordinance, a lot is a parcel of land 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, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;

Provided that in no case of division or combination shall any residual lot or parcel is created which does not meet the requirements of this ordinance.

The following diagram illustrates the terminology used in these regulations with reference to corner lots ("A"), interior lots ("C") and through lots ("D"). Some lots can be described as a corner lot or as a reversed frontage lot ("A-B"), or as a reversed frontage lot or interior lots ("B-C").^v



Lot Area - The entire area of a lot.

Lot Coverage - That portion of a lot which when viewed directly from above would be covered by a building or any part of a building.

Lot Frontage - The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all

sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under Yards.

Lot Line - A line marking the boundary of a lot.

Lots Line Equivalent - A straight line established for the purpose of determining the location and depth or width of a required yard and which either:

1. Joins points specified in these regulations, or
2. Is an extension of a street line or lot line?

Lot Measurements

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
2. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines of each side of the lot, measured across the rear of the required front yard, provided however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac where the eighty (80) percent requirements shall not apply.

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register, or a lot or parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot Types - The diagram (Figure 1) on the following page illustrates terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

1. Corner Lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
2. Interior Lot, defined as a lot other than a corner lot with only one (1) frontage on a street.
3. Through Lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.
4. Reversed Frontage Lot defined as a lot on that the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reverse frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

Mobile Homes - See Dwelling, Mobile Homes.

Mobile Home Park - An area where two (2) or more mobile homes or trailers can be and are intended to be parked, designed or intended to be used as temporary or permanent living facilities for two or more families.

Mobile Home Space - A plot of ground within a mobile home park, designed to accommodate one (1) mobile home, and which has water, sewer and electricity available at the space.

Mobile Home Stand - That part of an individual mobile home space which has been reserved for the placement of the mobile home.

Noncomplying -

1. Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or
2. Any lawful use other than a nonconforming use, which does not comply with any part of any one (1) or more of the applicable regulations pertaining to:
 - (a) Location along district boundary; or,
 - (b) Accessory off-street parking and loading; or,
 - (c) Either on the effective date of this Ordinance or as a result of any subsequent amendment.

Nonconforming Use - A lawful use of a building or other structure or of a tract of land which does not conform to any one (1) or more of the applicable use regulations of the district in which it is located, either on the effective date of this Ordinance or as a result of any subsequent amendment.

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.

Power Plant - A facility that converts one or more energy sources, including but not limited to water power, fossil fuels, nuclear power, or solar power, into electrical energy or steam. A power generation plant may also perform either or both of the following: (a) operation of a transmission system that conveys the energy or steam from generation facility to a power distribution system; (b) operation of a distribution system that conveys energy or steam from the generation facility or the transmission system to final consumers.

Power Plant, Geothermal - An electrical power generating plant with a nominal electric generating capacity of less than 25 megawatts; a pipeline that is less than 16 inches in diameter and less than five miles in length used to carry geothermal resources; related or supporting equipment and facilities.

Power Plant, Hydroelectric - All aspects of any project or development necessary for or related to the generation of hydroelectric energy, including but not limited to conduits, dams, diversions, fish ladders and screens, generators, impoundments, penstocks, turbines, transmission facilities and related buildings, structures, storage areas, access roads, parking areas, and surrounding and adjacent lands which are necessary for or related to the facility.

Power Plant, Peaker - An electrical power generation facility permanently installed on a foundation and whose main function is the provision of supplemental power to the electrical distribution system or transmission grid during periods of peak demand. The maximum number of annual hours of operation of a stationary peaking power plant is restricted by air quality management district permit and typically does not exceed 1,500 hours. The typical useful life of a stationary peaking power plant is up to 30 years.

Power Plant, Private - An electrical power generation facility that, regardless of fuel or energy source, is operated by a private property owner or lessee, and whose primary function is the provision of electricity to the permitted use(s) on the site the facility is located.

Power Plant, Backup - An electrical power generation facility that is operated only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. Electrical generation facilities operating where an interruptible service contract has been executed are not considered stand-by or backup electrical power generation facilities.

Power Plant, Transportable Peaker - A transportable electrical power generation facility brought on-site on flatbed trailers and left on the trailer or placed on steel skids for a temporary period, which can be for a particular peak season or from season to season. A transportable peaking power plant is not permanently installed and its main function is the provision of supplemental power to electrical distribution system or transmission grid during periods of peak demand. The maximum number of annual hours of operation of transportable peaking power plant is restricted by air quality management district permit and typically does not exceed 500 hours. A transportable peaking power plant is typically on-site for up to three years, but one or more such power plants can be installed on-site for a given peak period, then removed.

Principal Activity - An activity which fulfills a primary function of an establishment, institution, household or other entity.

Principal Building - A building that contains the principal activity or use located on a lot.

Profession (Professional Office) - The term profession, as used in this Ordinance, is limited in its application to physicians, dentists and surgeons, lawyers, members of the clergy, architects, and engineers, or other persons holding advanced degrees from institutions of higher learning in the field in which they practice. The term is not intended to include insurance agents, insurance adjusters, realtors, photo studios, beauty parlors, barber shops, dance schools, business schools or any persons engaged in sales or trade. In permitting professional offices as home occupations, and only as accessory uses in certain districts, it is intended that such offices shall be subject to limitations placed on home occupations generally, but that only offices occupied by persons engaged in professions, as herein defined, shall be permitted.

Required Yard - That portion of a lot that is required by the specific district regulation to be open from the ground to the sky and may contain only explicitly listed obstructions.

Residence - A building or part of a building containing one (1) or more dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, or rooming houses, or apartment hotels. However, residences do not include:

1. Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or
2. Dormitories, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations, or
3. Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facilities, or
4. In a mixed building, that part of the building used for any non-residential uses, except uses accessory to residential uses.

Restaurant - An establishment where food is ordered, prepared and served for pay.

Semi-Transient Residential Establishment - An establishment where lodging is provided for compensation partly on a monthly or longer basis and partly for a shorter time period, but with less than thirty (30) percent of the living units being occupied on a less-than monthly basis, but excluding institutions living arrangements involving the provision of specific kinds of forced residences, such as nursing homes, orphanages, asylums, and prisons.

Setback Line - A line running parallel to the street which establishes the minimum distance the principal building must be setback from the street line.

Story - A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

1. A basement or cellar if the finished floor level directly above is not more than six (6) feet above the average adjoining elevation of finished grade.
2. An attic or similar space under a gable, hip or gambrel roof, the wall plates of which or any exterior walls are not more than two (2) feet above the floor or such space.

Street - A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property. The word "street" shall include the words "road", "highway", and "thoroughfare".

Street Line - The property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the side of the sidewalk furthest from the traveled street shall be considered as the street line.

Structure - Anything constructed or erected, the use of that requires a permanent location on the ground or attachment to something having a permanent location on the ground. This includes but is not limited to buildings, towers, smokestacks and overhead transmission lines.

Use - The purpose for which land or water or a structure thereon is designed, arranged, and intended to be occupied or utilized or for which it is occupied or maintained.

Use and Occupancy Permit - A written permit issued by the building inspector required before occupying or commencing to use any building or other structure or any lot.

Use, Public - Any use that is under control of a unit of general-purpose government or governmental agency.

Use, Recreation - Any use of land or water and facilities provided for the enjoyment of the general public.

Use, Semi-Public - Any use that is under the control of a non-private organization or a non-governmental agency which provides a public service.

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. The measurement of a yard shall be construed as the minimum horizontal distance between the lot lines and any part of the building, such as roof overhang.

Yard, Front – Measured from the right-of-way or Permanent Access Easement, a yard extending across the entire width of the lot between the lot line and the nearest part of the principal building, including covered porches. At least two (2) such yards shall be designated for each corner lot and each through lot, and at least three (3) such yards shall be designated for each through corner lot.

Yard, Side - A yard extending along the side lot line or Permanent Access Easement from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

Yard, Rear - The yard extending across the entire width of the lot between the rear lot line or Permanent Access Easement and the nearest point of the principal building including covered porches.

1.03 LEGAL STATUS PROVISIONS

A. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

B. Relationship of Other Laws and Private Restrictions

1. Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.

2. This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

C. Ordinance Provisions Do Not Constitute Permit

Nothing contained in this ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

D. Provisions are Cumulative

The provisions of this ordinance are cumulative with additional limitations imposed by all other laws and ordinances, heretofore, passed or which may be passed hereafter, governing any subject matter appearing in this ordinance.

E. Separability

It is hereby declared to be the intention of the Board of Mayor and Aldermen of the City of Brownsville, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property building or structure not specifically included in said judgment.

F. Application of Regulation

No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the City except as specifically or by necessary implication, authorized by this ordinance. Conditional uses are allowed only on permit granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

G. Scope of Regulations

1. New Uses, Lots, Buildings or Other Structures

Upon the effective date of this ordinance any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this ordinance.

2. Existing Uses, Lots, Buildings, or Other Structures

(a) Any existing uses legally established prior to the effective date of this ordinance that does not comply with its provisions shall be subject to the nonconforming use provisions in Chapter 8 of this ordinance.

(b) Any existing lot, parcel, building, or other structure legally established prior to the effective date of this ordinance that does not comply with its provisions,

other than use provisions, shall be subject to the non-complying regulations in 8.03 (B) of this ordinance.

3. Alteration of Existing Buildings and Other Structures

All structural alterations or relocation of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

H. Effective Date

This ordinance shall be in force and effect from and after its passage on third and final reading and adoption, the public welfare requiring it.

1.04 EXCEPTIONS AND MODIFICATIONS

A. Front Yards

The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within three hundred (300) feet on each side of such lot, is less than the minimum required front yard, but not less than the average of the existing front yard depths on the developed lots. In residential districts, however, the front yard shall in no case be less than fifteen (15) feet in depth.

B. Lot of Record

Where the owner or subsequent owner of a lot 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 in accordance with Section 9.05 of this code. 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 is possible in the opinion of the Board of Zoning Appeals.

C. Adjoining Substandard Lots of Record

Where two (2) or more substandard lots of record with a continuous frontage are under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

D. Exception on Height Limits

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts and aerials, provided other district requirements are met.

1.05 GENERAL PROVISIONS FOR ALL DISTRICTS

A. General District Regulations

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - (a) To exceed the height or bulk;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area, where applicable; and,
 - (d) To have narrower or smaller rear yards, front yards, side yards or other open space than herein required; or in any manner contrary to the provision of this ordinance;
3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building or the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading spaces similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance 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 meet at least the minimum requirements established by this ordinance.

B. Visibility at Intersections

On a corner lot in any district, except C-B, nothing shall be erected, place, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2 1/2) and then ten (10) feet. This restriction applies to that area formed by the center lines of streets or a street and a railroad at a distance of one hundred (100) feet from their intersections.

C. Accessory Activity, Use, Buildings, or Structure

No accessory activity, use, buildings, or structure shall be erected in any side or front yard, and no separate accessory building or structure shall be erected within five (5) feet of any property line or other building, except that canopies (attached or unattached), as accessory structures to commercial uses, may be allowed in a front or side yard upon site plan review and approval by the Planning Commission. In the case of such site plan review, the Planning Commission may add such requirements, as it deems necessary to promote the purpose and intent of the Zoning Ordinance. However, in no instance shall the Planning Commission approve the construction of a canopy less than five (5) feet from any street right-of-way line.

All accessory uses must be permitted prior to installation and subject to setback, fencing or screening requirements.^{vi}

D. Minimum Required Yard Area

Regardless of the orientation of buildings, no less than the minimum yards required by the district regulations in which the development is located shall be maintained along the outer boundaries of the lot.

E. Structures to Have Access

Every structure shall be on a lot adjacent to a public street or with access to any approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

F. Parking, Storage or Use of Major Recreation Equipment

For purposes of these regulations, major recreational equipment is defined to include boats and boat trailers, travel trailers, tent trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwelling and the like. No major recreational equipment shall be parked or stored in any front yard of any lot in a residential district. However, such equipment may park anywhere on residential premises for not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

G. Fences, Walls, and Hedges

Fences, walls and hedges may be permitted in any required yard along the edge of any yard except as prohibited in Subsection 1.05 (B) above.

H. Only One Principal Building on Any Lot

Only one principal building and its customary accessory buildings may hereafter be erected on any lot in R-1, R-1a, R-2, R-2a, PRD and MH zones. This provision shall not apply to R-3, R-TH, NC, MPO, SCC, CB, GC, RI and GI zones provided that all bulk, area, yard and other requirements of the zone are met.

I. Zoning of Annexed Territory

All territory that may hereafter be annexed into the City of Brownsville shall be zoned and classified as a part of that zoning district of the town specified by the board of Mayor and aldermen by ordinance at the time of annexation thereof. The Planning Commission shall make recommendations to the Board of Mayor and Aldermen on proposed zoning for areas in the process of being annexed. The Board, before adopting any ordinance zoning the property, shall first hold a public hearing in accordance with TCA 13-7-203^{vii}. Upon annexation, the Board of Mayor and Aldermen shall, by separate ordinance, zone such annexed territory consistent with the public health, safety, convenience, and welfare of the inhabitants of the City of Brownsville.

J. Expiration of Site Plans

Any site plan approved under the provisions of this ordinance shall expire after a period of one year from the date of approval granted by the Planning Commission unless substantial construction shall have been started and completed. For the purpose of this section, substantial construction shall mean the erection, construction or permanent placement of at least twenty-five (25) percent of all buildings, structures, infrastructure, drainage facilities, drives, parking areas, walkways, landscaping, or other improvements indicated on an approved site plan.

This provision shall apply to all prior approved site plans with the one-year expiration period commencing with the effective date of this sub-section (August 16, 1994). Prior approved site plans shall be completed in their entirety three (3) years from the effective date of this sub-section.

Any site plan that expires in compliance with this subsection may be re-submitted for review by the Planning Commission. However, such site plans shall comply with the requirements of this ordinance in force at the time.

K. Communications Towers

Communications Tower: A wireless transmission facility constructed for the purpose of supporting an antenna array; including any accessory structures and equipment. Towers of thirty feet or less in height are exempted from these regulations.

1. Residential Districts – Communications towers are permitted only as accessory uses to residential uses on the same lot. Maximum Height 60 feet
2. Commercial Districts – Communications towers are permitted only as accessory uses to commercial uses on the same lot.
3. Industrial Districts – Communications towers are permitted as accessory uses to industrial uses on the same lot, and as non-accessory uses.

General Standards for Communications Towers in Commercial and Industrial Districts

In addition to the requirements of the applicable district and the general requirements set forth above, a special exception shall be granted for Communications Towers when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

1. Setbacks – All towers and accessory structures that are not constructed within a utility easement shall be setback from the property lines a distance equal to twenty (20) percent of the tower height or the district yard requirement, whichever is greater.

In instances when a tower and accessory structures are constructed adjacent to a residential district, either immediately adjacent to such property or across a public way, the minimum setback from a residential lot line or a residential district, shall be equal to one hundred (100) percent of the tower height.

2. Structural Requirements – Prior to the approval of any application for a tower or the co-use of an existing tower or utility structure, the applicant shall provide written certification from a registered structural engineer that the tower is able to withstand winds of a minimum of seventy (70) miles per hour with one-half (.5) inch radial ice.
3. Security - The cellular tower facility shall be fully secured through the installation of a security fencing/wall system of a minimum height of eight (8) feet or the height of the accessory structures, whichever is greater.
4. Site Plan Requirements- Prior to the issuance of a building permit, the construction of a tower or the utilization of an existing structure for

telecommunications or television transmission purposes, the submission of a site plan in accordance with the following provisions shall be required.

- a. If the proposed tower is a new tower not on an existing utility structure, the site plan shall show the location of the initial user's accessory structure and the location of two (2) future accessory structures.
- b. A letter from a professional civil or structural engineer certifying that the tower's height and design complies with these regulations and applicable structural standards and, also describes the tower's capacity which includes the number and type of antennas that can be accommodated.
- c. A letter indicating why existing towers within one (1) mile cannot be utilized.

5. Removal of Obsolete Towers

- a. Any tower that is no longer in use for its original communication purpose shall be removed at the owner's expense. The owner shall provide the City of Brownsville with a copy of the notice of intent to the FCC to cease operations and shall be given ninety (90) days from the date of the ceasing of operations to remove the tower and all accessory structures, provided another operator has not submitted a request for a tower during that time period. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.
- b. Prior to the issuance of a permit for any tower, co-use of any tower or co-use of any utility structure, a surety instrument (i.e. letter of credit or bond), which shall serve to ensure prompt removal of the tower once it ceases to operate, shall be provided by all users. The amount of the surety instrument shall be determined by the Mayor of Brownsville and the city engineer and then approved by the Planning Commission during the site plan review process.

- L. Storm Water Compliance – All development shall comply with provisions set forth in the City of Brownsville Storm Water Ordinance. Specifically, all development on property totaling less than one (1) acre shall submit a Drainage Plan to the City of Brownsville's Building Inspector and all development of one (1) acre or more shall submit a Storm Water Plan as part of the Site Plan packet to the City of Brownsville's Building Inspector.^{viii}

M. Manufactured Homes

Definition: Means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of the U.S. and State of Tennessee Code except the size requirements and with respect to which the manufacturer voluntarily files a certification required and complies with the standards established; and except that such term shall not include any self-propelled recreational vehicle.

For the purpose of these regulations the term “manufactured home” does not include “mobile homes” as herein defined. A manufactured home having the same general appearance as a site-built home shall be allowed on individual lots in any residential district provided the following conditions are met:

1. The unit must meet the construction standards established by the United States Department of Housing and Municipal Development, pursuant to the National Manufactured Home Construction and Safety Standards Act that are in effect at the time of installation. The unit must also comply with the regulations of the Tennessee Department of Commerce and Insurance, Division of Fire Prevention in effect at the time of installation. The unit will be installed on a permanent foundation system in compliance with all the applicable requirements of the International Building Code.
2. The unit must be covered with an exterior material customarily used on conventional dwellings. A solid brick or stone veneer perimeter foundation must be used. Suitable exterior materials include but shall not be limited to clapboard or simulated clapboard such as conventional or metal material, but excluding smooth, ribbed or corrugated metal or plastic panels.
3. The hitches or towing apparatus, axles and wheels must be removed.
4. The roof must be pitched so that is at least a two-inch vertical rise for each twelve (12) inches of horizontal run. The roof must consist of material that is customarily used for conventional dwellings including but not limited to approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roof.
5. All such units shall be required to connect to a public utility system which includes, gas, electric, water and sewer in compliance with the International Building Code and National Electric Code. Electric meters will be mounted on an attached fixture on the house.
6. These provisions shall not apply to manufactured homes in an approved mobile home park.

N. Submission Provisions

1. Mail Notice

- a. At least 15 days prior to the public hearing before the governing body, the affected property owners and neighborhood organizations within 500 feet of the parcel(s) under consideration by the governing body, including those separated by a public way or corporate limit boundary, shall be notified by mail of the proposed amendment or application.
- b. Notification shall include the date, time and location of the hearing, the street address of the subject tract, the project area size, the current and proposed zoning classification and a plot plan of the subject parcel(s).

2. Sign Notice - The requirement for posting signs regarding the application for a [Planned Development, Zoning Change, Special Use Permit, Subdivisions] is intended to provide notice to interested parties within the vicinity of the property.
- a. Location.
 - i. Signs shall be posted along the frontage of the nearest street right-of- ways with the largest traffic volumes as determined by the City of Brownsville Planning Staff within 30 feet of each major roadway entrance into the development, with a preference to the ingress side of the entrance drive or if the tract is vacant then one sign shall be posted per 600 feet of street frontage or fraction thereof. If there is no abutting public street, then signs shall be posted along the exterior boundary lines of the subject property and within a distance of 300 feet along each major private drive providing access thereto. If more than one street abuts the property, then at least one sign shall be erected per street frontage. Additional signs may be required as otherwise determined by the City of Brownsville Planning Staff.
 - ii. Each sign shall be placed no closer than five (5) but not more than 15 feet from the right-of-way line, visible from each public street on which the subject property has frontage, provided, however, that where said property is improved by a building, which is less than 15 feet from the street property line, the sign may be placed on the front side of the building or on a front door and/or window of the building.
 - iii. Signs shall not be placed in the clear sight triangle of a street intersection or erected in the public right-of-way.
 - b. Size and type - Each sign shall be two (2) feet by three (3) feet in size made of waterproof corrugated plastic in accordance with standards and specifications provided by the City of Brownsville Planning Staff.
 - c. Sign permit fees - Signs required by these regulations are not subject to any City of Brownsville sign permit fees.
 - d. Content of Notice - Signs shall be prepared using templates or attachable letters. Hand lettered signs are not acceptable. The required sign message shall include:
 - i. City of Brownsville logo and address.
 - ii. The title “PUBLIC NOTICE.”
 - iii. Type of application for the subject property.
 - iv. “Public Hearing Will Be Held”
 - v. Case No. XX-XXX
 - vi. Information: (731)772-1212
 - vii. Language stating that “Defacing, tampering, or removal of the sign by anyone other than the owner or their agent is an illegal act and the

person who defaces or removes the sign without permission of the owner will be penalized.”

- viii. Other information, as determined by the City of Brownsville Planning Staff.
- e. Responsibility for Installation and Removal - The applicant shall be solely responsible for the construction, installation, and removal of the sign(s) and the associated costs.
- f. Any sign erected shall be maintained in good condition throughout the posting period by the applicant up to the time of hearing. If the sign is damaged, vandalized, or removed prior to the hearing the applicant shall be responsible for the one-time replacement of the sign within 72 hours of notification.
- g. The sign(s) shall be erected at least 10 calendar days prior to any public hearing date of the Brownsville Planning Commission, the Brownsville Board of Zoning Appeals, and/or the Brownsville Board of Mayor and Aldermen. Applicant(s) may temporarily remove the sign(s) after each public hearing, provided they reinstall the sign(s) at least 10 days prior to the next public hearing. The sign(s) shall be removed within 10 working days following final action by the Brownsville Board of Mayor and Aldermen.

1.06 DESIGN REVIEW GUIDELINES

- A. Intent – Design Review Standards are needed to encourage and protect the investment of individual property owners when their property is redeveloped and improved. Accordingly, any new building or redevelopment of an existing property in the district shall be designed and constructed to be architecturally compatible in materials, scale and massing. Such standards are not intended to create a monolithic architectural appearance in these districts, but to encourage creative and attractive building elements and finishes.
- B. The DRC (Design Review Commission) Overlay District - is described as the City of Brownsville’s following zoning districts: R-2 (Medium Density Residential), R-3 (High Density Residential), R-TH (Residential Town House), NC- (Neighborhood Commercial), MPO (Medical–Professional Office), CB (Central Business), GC (General Commercial), and M-U (Mixed-Use) Districts.
- C. Guidelines - The following guidelines are meant to provide for suitable and harmonious development within the DRC Overlay District only.
 - (a) Plan Content – The owner or developer shall submit seven (7) paper copies of the proposed site plan to the Building Inspector thirty (30) days prior to the regular meeting date of the Planning Commission. The developer is encouraged to also submit a PDF file. The site plan shall be reviewed in light of the provisions of this ordinance and approved or disapproved.

The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. When approval has been granted, the site plan shall be signed and dated by the Secretary of the Planning Commission. In instances of disapproval, the applicant shall be notified in writing as to the reasons(s) the site plan was not approved.

Prior to the regular Planning Commission meeting, copies of the proposed site plan shall be distributed to the Building Inspector, City Planner, Staff Engineer and other affected departments for review of areas under their concern. Once the City staff has reviewed the proposed development and has submitted a written review, a copy of these reviews shall be distributed to members of the Planning Commission and to the applicant prior to the scheduled meeting. To assist in resolving any potential problems, the owner, developer, or agent shall be required to attend the meeting at which the item is to be heard.

In instances where site plan review is required by either the Building Inspector, City Planner, the Design Review Commission (Planning Commission) or the Board of Zoning Appeals, the site plan shall be drawn to a scale of not less than 1" = 50' and shall include:

- Name and address of development
- Name and address of the applicant and owner of record
- Tax map and parcel number of the subject property
- Present zoning of the site and abutting properties
- Date, graphic scale, and north point with reference to source of meridian
- Courses and distances of centers of all streets and all property lines, setback lines, property restricting lines, easements, covenants, reservations and rights-of-way
- The total land area
- A vicinity map showing the location of the property in relation to the City of Brownsville
- Topography of the existing ground and paved areas and elevations in relation to mean sea level of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures. Topography to be shown by dashed line illustrating five (5) foot contours and by spot elevation where necessary to indicate flat areas
- Certification as to the following:
 - Certificate of accuracy of the plan by a licensed architect or engineer and, certificate of approval by the Brownsville Municipal / Regional Planning Commission or the Brownsville Municipal Board of Zoning Appeals, whichever is applicable to the type of use that is requested.
 - The location, dimensions, site and height of the following when existing:
 - Sidewalks, streets, alleys, easements and utilities

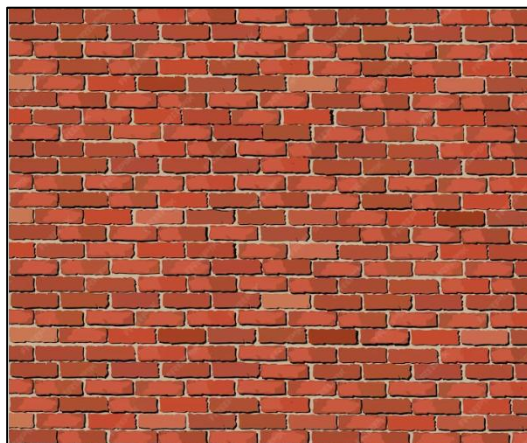
- Buildings and structures
- Public wastewater systems
- Slopes, terraces and retaining walls
- Driveways, entrances, exits, parking areas and sidewalks
- Water mains and fire hydrants
- Trees and shrubs
- Recreational areas and swimming pools
- Natural and artificial water courses
- Limits of flood plains
- Building Elevations detailing exterior surface materials
- The location, dimensions, site and height of the following when proposed:
 - Sidewalks, streets, alleys, easements and utilities
 - Buildings and structures including the front (street), side, and rear elevations of proposed buildings
 - Public waste water systems
 - Slopes and terraces, and retaining walls
 - Driveways, entrances, exits, parking areas and sidewalks
 - Water mains and fire hydrants
 - Trees and shrubs;
 - Recreational areas
 - Distances between buildings
- Estimates of the following when applicable:
 - Number of dwelling units
 - Number of parking spaces
 - Number of loading spaces
 - Number of commercial tenants and employees
- Plans for collecting storm water and methods of treatment of natural and artificial watercourses including a delineation of limits or flood plains
- Proposed grading, surface drainage terraces, retaining wall heights, grades on paving area, and ground floor elevations of proposed building and structures
- Proposed topography of the site shall be shown by five (5) foot contours
- In instances where the proposed construction is a multifamily residence, the site plan shall consist of the following:
 - All property lines and their surveyed distances and courses
 - All building restricting lines, setback lines, easements, covenants, reservations and rights-of-way
 - Total land area
 - Present zoning of site and abutting properties
 - Name, address of owner of record and applicant
 - Provisions for utilities (water, sewer, etc.)
 - Location and dimensions of the proposed structures
 - Building elevations detailing exterior surface materials

Trees and shrubs
Enclosed dumpster pad area
Mail collection facility

- (b) Expiration of Approval and Renewal - A site plan approved by the Design Review Commission or the Board of Zoning Appeals shall lapse unless a building permit, based thereon, is issued within three (3) years from the date of such approval unless an extension of time is applied for and granted by the appropriate approving body.
- (c) Building Material Composition Design Standards for Multi-Family, General Commercial, Neighborhood Commercial Districts
Applicable standards - Within the parameters set forth in the Intent, the following design standards shall apply in the development and redevelopment of property in the R-2, R-3, R-TH, NC, MPO, CB, GC, MU and MU-RC1 districts:

Exterior materials and details - Quality materials which are durable and attractive shall be used on all buildings including brick, cast stone, cultured stone, and cement board siding. Please see the following example illustrations for such:

Brick



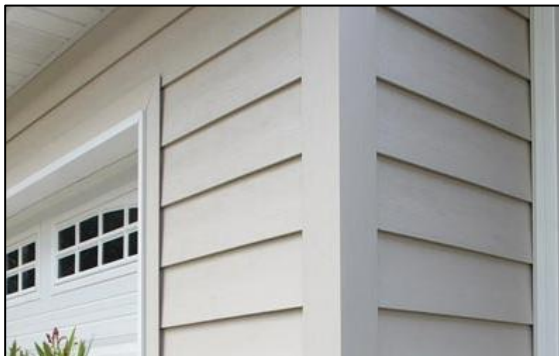
Cast Stone



Cultured Stone



Cement Board Siding



All publicly visible sides of the building (excluding windows, trim and doors) shall be covered in brick, cast stone, cultured stone, cement board siding, high quality vinyl siding, or an alternative masonry material acceptable to the Design Review Commission. Additionally, combinations of these materials may be considered within R-2, R-3, R-TH and residential sections of MU and MU-RC1 districts. Split faced block may be used in the true service areas in combination with the above materials if it is integrally colored, not stained or painted. Concrete panels, prefabricated metal panels, fluted concrete cinder block, and similar imitation masonry materials, and stucco finishes shall be avoided as the main exterior material.

Residential

In R-2 (duplexes), R-3, and R-TH Districts, multi-family dwellings shall have a minimum of 25% of the exterior walls (excluding windows, trim and doors) covered in brick, cast stone, cultured stone, or an alternative masonry material acceptable to the Design Review Commission. Cement board and or high-quality vinyl siding may be combined with brick, cast stone, and cultured stone. The Design Review Commission may consider permitting high-quality vinyl siding for 100% of the exterior walls for multi-family dwellings limited to duplexes if it is determined the majority of the existing building exterior walls within the vicinity area consist of it.

Commercial

In MU, NC, MPO, CB, and GC Districts, all publicly visible sides of the building shall have a minimum of 100% of the exterior walls (excluding windows, trim and doors) covered in brick, cast stone, cultured stone, cement board siding, or an alternative masonry material acceptable to the Design Review Commission.

Window/door openings – It is recommended that each floor facing a public street or park shall have windows covering at least 15% of the wall area. Buildings shall have clearly defined and highly visible customer entrances, which shall be recessed or framed by a sheltering element such as an overhang, arcade, portico or other roof form. Individual framed windows shall be provided instead of continuous horizontal "ribbon or band" type windows. Reflective glass, glass curtain walls and other continuous, floor-to-ceiling windows shall also be avoided on all floors. Windows shall have a minimum sill height of 18 inches off of finished floor. The patterns of window openings and details of bays shall be used to create a sense of scale and add visual interest to building facades. Wall openings shall not span vertically more than one story.

Awnings – It is recommended that the design of awnings, including the selection of material and color, shall complement the architectural style and character of the building. Large buildings with multiple storefronts shall have compatible, though not necessarily identical, awnings. Signage may be allowed on awnings so long as it meets design and signage standards of Section 11.04 of this ordinance and is approved by the planning commission. Signage on awnings shall count toward the total number of signs as well as the maximum sign area allowed under Section 11.04 of this ordinance. Striping may be allowed on awnings, provided there are no more than two colors, which shall be in keeping with the overall character of the district. Awnings may not be back lit. Awnings shall be made of fabric or metal and may project up to three feet into the public right-of-way with the bottom of the canopy at least nine feet above the sidewalk. Awnings shall be kept in good repair.

Landscaping - The landscape of the City of Brownsville mirrors the predominant landscape of the surrounding region, with informal groupings of plants amidst green lawns. Landscape design shall compliment this image. To provide a more immediate effect in commercial areas and offset the larger scale structures, the preferred street trees are 3 inch - 3 ½ inch caliper oak, planted no further apart than 50 feet on center. Evergreen species are desirable for screening views, such as views into parking or service areas. As an extension of the surrounding natural landscape, plant species shall be native or well adapted to the region.

- (d) Design Review Guidelines
The Brownsville and Haywood County Interim Development and Design Guidelines dated October 18, 2022 prepared by LRK shall be referenced for development guidance.

(e) Appeals

All appeals shall be made to the Board of Zoning Appeals. In order to appeal, the owner or developer shall submit five (5) copies of the proposed site plan to the Building Inspector thirty (30) days prior to the regular meeting date of the Board of Zoning Appeals. The site plan shall be reviewed in light of the provisions of this ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. When approval has been granted, the site plan shall be signed and dated by the Chairman of the Board of Zoning Appeals. In instances of disapproval, the applicant shall be notified in writing as to the reason(s) the site plan was disapproved.

Prior to the scheduled meeting, copies of the proposed site plan shall be distributed to the city planner, building inspector, consulting engineer and other affected departments for review of areas under their concern. Once the City staff has reviewed the proposed development and has submitted a written review, a copy of these reviews shall be distributed to members of the Board of Zoning Appeals and to the applicant prior to the scheduled meeting. To assist in resolving any potential problems, the owner, developer, or agent shall be required to attend the meeting at which the item is to be heard.

CHAPTER 2: ESTABLISHMENT OF DISTRICTS, USES PERMITTED IN EACH DISTRICT, AND PROVISION FOR OFFICIAL ZONING MAP

2.01 ESTABLISHMENT OF DISTRICTS

A. Regular Districts

In order to implement all purposes and provisions of the Ordinance, the lands within the corporate limits of the City of Brownsville, Tennessee, are divided into districts designated as follows:

1. Residential Districts:

R-1	Low Density Residential
R-1a	Median Density Single Family
R-2	Medium Density Residential
R-2a	Median Density Single Family Residential
R-3	High Density Residential
R-TH	Townhouse Residential
MH	Mobile Home Park
MU-RC1	Mixed Use Residential Commercial

2. Commercial Districts:

NC	Neighborhood Commercial
MPO	Medical-Professional Office
SCC	Shopping Center Commercial
CB	Central Business
GC	General Commercial

3. Mixed Use Districts:

MU	Mixed Use District
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4. Industrial Districts

RI	Restrictive Industrial
GI	General Industrial

B. Special Districts

In order to address special problems and circumstances that may exist throughout the City, the following special districts have been created:

FH	Flood Hazard District
IHD	Interstate Highway District
OPSD	Off-Premise Sign District
PRD	Planned Residential District

2.02 USES PERMITTED IN EACH ZONING DISTRICT IN BROWNSVILLE

USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI
RESIDENTIAL Dwellings: Single family detached	X	X	X						X ^{ix}			
Single family attached				X					X			
Two Family (duplex)			X						X			
Multiple family			X						X			
Mobile Home Park					X							
OTHER HOUSING Boarding House									X	X		
Rooming House									X	X		
Hotel								X ^x	X	X ^{xi}		
Motel and Tourist Court									X	X		
INSTITUTIONAL Cemetery-Mausoleum										C	C	
Place of Worship	C	C	C	C	C		X	X	X	X		
School, public or private Grades K-12	C	C	C	C	C			X		X		
Day Care Center	X ¹	X ¹	X ¹	X ¹	X ¹	C	C	X		X		
Family Day Care Home	X ¹	X ¹	X ¹	X ¹	X ¹	C	C	X		X		
Group Day Care Home	X ¹	X ¹	X ¹	X ¹	X ¹	C	C	X		X		
Health Clinic							X					
Hospital							X					
Lodge, Club									X			
Country Club	C	C	C	C	C		C			C	C	C
Nursing Home							X			X		
Observation-Rehab. Center							X					
Park, Playground, Playfield	X	X	X	X	X	X	X	X	X	X	X	X
Community Centers	C	C	C	C	C	X	X	X	X	X	X	X
Orphanages	C	C	C	C	C							
Rest Homes and Homes for the Aged							X					
Airports, Air cargo terminals, heliports and any other aeronautical devices										C	C	C
Major mail processing centers										C	C	C
Military Installations										C	C	C

Colleges, junior colleges and universities, but excluding business operated as profit making enterprises										C	C	C
All golf courses	C	C	C	C	C		C			C	C	C
USES PERMITTED	R-1, R-1a, R-	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI
Stadiums, sports arenas, auditoriums and bandstands										C	C	C
Zoological gardens										C	C	C
Public, parochial and private non-profit libraries and observatories	C	C	C	C	C		X	X	X	X		
Non-profit private public and utility admin. Offices							X	X	X	X		
Post Offices (excluding major mail-processing centers)						X	X	X	X	X		
Police and Fire Stations	C	C	C	C	C	X	X	X	X	X	X	X
Temporary Non-profit festivals	C	C	C	C	C	C	C	C	C	C	C	C
PUBLIC UTILITIES Communications installations or exchanges						X	X	X	X	X	X	X
Electric or gas substations	C	C	C	C	C	X	X	X	X	X	X	X
Railroad, bus & transit terminals								C	C	C	C	C
Electric, communication and telephone distribution lines, poles, transformers and splice boxes ²	X	X	X	X	X	X	X	X	X	X	X	X
Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances ²	X	X	X	X	X	X	X	X	X	X	X	X
Private Streets	X	X	X	X	X	X	X	X	X	X	X	X
Right-of-way to all modes of transportation	X	X	X	X	X	X	X	X	X	X	X	X
Small landscaped, scenically significant open areas, natural reserves	X	X	X	X	X	X	X	X	X	X	X	X
Public and private utility corporations or truck yards										C	C	C
Radio and television transmission stations										C	C	C
Railroad yard and other transportation equipment marshaling and storage areas										C	C	C
Reservoirs and water tanks	C	C	C	C	C	C	C	C	C	C	C	C
Sewage disposal treatment plants											C	C
Electric transmission lines and major fuel transmission lines										C	C	C
Gas, electric, production, treatment facility										C	C	C
Water Production, Treatment Facility	C	C	C	C	C	C	C	C	C	C	C	C
LUMBER, HARDWARE, BUILDING MATERIALS Lumber yards											X	X
Building Materials									X	X	X	X
Heating & plumbing equipment								C	X	X	X	X
Paint, glass & wallpaper								X	X	X		
Electrical supplies								C	X	X	X	X

Welding supplies									C	X	X	X	X
Hardware									X	X	X		
Greenhouse & nursery products									C	C	C	C	C
Agricultural equipment, sales & service											X		
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
Lawnmower sales									X	C			
Lawnmower, sales and services (repair)								C		X			
GENERAL MERCHANDISE Department stores								X	X	X			
Variety stores								X	X	X			
Clothing & Dry Goods								X	X	X			
General Merchandise Stores								X	X	X			
FOOD-DRUG-BEVERAGE Bakery						X ³	C	X	X	X	C	C	
Candy, Confectionery						X ³	C	X	X	X			
Delicatessen						X ³	C	X	X	X			
Drugs and pharmaceuticals						X ³	C	X	X	X			
Fruit & vegetable. Stand						X ³			X	X			
Grocery store						X ³		X	X	X			
Package liquor store								X	X	X			
Supermarket								X	X	X			
Beverage store								X	X	X			
AUTO DEALERS & SERVICE STATIONS													
Service Stations								C	C	X			
Used Car sales									C	X			
Auto parts (new)								X	X	X			
Auto Dealership									C	X			
Car Wash										X			
Auto parts (used)										C	C	C	
Boat, marine sales										C			
Truck, heavy equipment sales										C			
Mobile home sales; prefabricated homes										C			

Auto and truck rental											C		
Motorcycle Sales									C		X		
Tire sales and servicing									C		X		
APPAREL & ACCESSORIES													
Men & boy's clothing								C	X	X	X		
Women's ready-to-wear								C	X	X	X		
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
Millinery & accessories							C	X	X	X			
Shoe stores								X	X	X			
Tailor Shop							C	X	X	X			
Children's shop								X	X	X			
FURNITURE - HOME FURNISHINGS APPLIANCES Furniture								X	X	X			
Appliances								X	X	X			
Drapery & upholstery								X	X	X			
Piano & musical instrument								X	X	X			
Floor coverings								X	X	X			
Radio & TV sales; phonographs								X	X	X			
EATING & DRINKING PLACES													
Restaurants, cafes, cafeterias							C	X	X	X	C	C	
Taverns, bars										C			
Nightclubs										C			
Dairy bars								X	X	X			
Drive-in restaurants								X	X	X			
ART-ANTIQUA JEWELRY – Antique Store								X	X	X			
Art Gallery							C	X	X	X			
Art & Craft Shop							C	X	X	X			
Flower shop, florist							C	X	X	X			
Gift Shop							C	X	X	X			
Glasses & China							C	X	X	X			
Jewelry, watches							C	X	X	X			

Optical goods								C	X	X	X		
BOOKS – STATIONERY - Books								C	X	X	X		
Greeting cards							X ³	C	X	X	X		
Magazines							X ³	C	X	X	X		
Newspapers							X ³	C	X	X	X		
Stationery							X ³		X	X	X		
HOBBY-TOY-PET - Aquariums, bird or pet shop									X	X	X		
Camera shop								C	X	X	X		
Hobby shop									X	X	X		
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
Sporting goods, bicycles									X	X	X		
Toys									X	X	X		
MISCELLANEOUS RETAIL													
Salvage clothing										X	X		
FINANCE-INSURANCE-REAL ESTATE Banks								C	X	X	X	X	
Savings & Loan								C	X	X	X	X	
Real Estate Agents								C	X	X	X	X	
Insurance Carriers								C	X	X	X	X	
Other Finance, Insurance, Real Estate Services								C	X	X	X	X	
PERSONAL SERVICES													
Branch laundry, dry cleaning equipment									X	X	X		
Laundry dry-cleaning pick-up station							X		X	X	X		
Self-service laundry							X		X	X	X		
Photographic services								C	X	X	X		
Beauty Shop							X	C	X	X	X		
Pipe and tobacco shop							X	C	X	X	X		
Barber shop							X	C	X	X	X		
Funeral Services										C	X		
Tailoring & dressmaking							X		X	X	X		
Apparel repair & alteration							X		X	X	X		

Shoe repair							X	C	X	X	X	C	C
PROFESSIONAL SERVICES – Physicians								X	X	X	X		
Dentists								X	X	X	X		
Veterinarians								X	X	X	X		
Attorneys								X	X	X	X		
Accountants								X	X	X	X		
Engineers								X	X	X	X		
Planning								X	X	X	X		
Architects								X	X	X	X		
Optometrist								X	X	X	X		
Hospital Services & Supplies									X	X	X		
Medical clinic-out-patients								X					
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
BUSINESS OFFICES													
Executive, management and administrative activities of private, profit making firms							X	X	X	X			
RECREATION & ENTERTAINMENT													
Motion Picture Theater								X	X	X			
Drive-in movie											C		
Amusement park											C		
Fairground											C		
Golf driving range											C		
Indoor Shooting Range											C		
Roller skating								X	X	X			
Bowling								X	X	X			
Electronic Amusement Devices, Arcades								C	C	X			
Billiard parlor								C	C	X			
Health Spa								X	X	X			
Miniature golf											X		
BUSINESS SERVICES Duplicating, mailing & stenographic							C	X	X	X			
Employment agencies							X	X	X	X			
Warehousing & storage										X	X	X	

Consulting Service								X	X	X	X		
Detective & protective								X	X	X	X		
Photofinishing											C	X	X
Trading stamps									X	X	X		
Equipment rental & leasing									C	X	X	X	X
Monument sales											X		
Clerical services								X	X	X	X		
Custom printing, excluding the printing of books other than pamphlets and small reports									X	X	X		
Research services (private)											C	X	X
Metal & wood fencing, ornamental grill work											C	X	X
Window cleaning									X	X	X		
Disinfecting & exterminating										C	X	X	
Central laundry, dyeing and dry cleaning works												X	X
Animal hospital & clinic											X		
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
Freight forwarding office											X	X	X
Truck terminal												X	X
REPAIR SERVICES													
Auto repair, garages									C	X	X		
Electrical repairs, small appliances									X	X	X		
Radio and TV repair									X	X	X		
Watch, clock & jewelry repair									X	X	X		
Auto body repair and paint shops											X	X	
Furniture and large household appliance repair									X	X	X		
Armature rewinding												X	X
Welding Shop												X	X
Reupholstery										C	X	X	X
Tire recapping or retreading												X	X
EDUCATIONAL SERVICES													
Business & Steno schools									X	X	X		
Barber & beauty schools									X	X	X		

Art & Music Schools									X	X	X		
Driving Schools									X	X	X		
Correspondence Schools								C	X	X	X		
Other special training & schooling								C	X	X	X		
<u>CONTRACT CONSTRUCTION SERVICES</u>													
Building Contractor											X	X	X
Other General Construction											X	X	X
Plumbing and heating and decorating											X	X	X
Electrical Construction											X	X	X
Masonry, stonework tile setting, plastering and concrete											X	X	X
Carpentry & wood flooring											X	X	X
Roofing and sheet metal											X	X	X
Water well drilling											X	X	X
<u>WHOLESALE TRADE</u>													
Drugs, chemicals, and allied products											C	X	X
Groceries and related products											C	X	X
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI	
Electrical goods										C	X	X	
Hardware, plumbing & cooling equipment and supplies										C	X	X	
Metals & minerals										C	X	X	
Petroleum bulk stations, terminals, & distribution											X	X	
Scrap & waste material											X	X	
Paper & paper products											X	X	
Manufacture assembly, processing, storage, distribution of: Chemicals, drugs, soap, fertilizers and abrasive products													C
Communications equipment, electronic components, engineering scientific & photographic equipment											X	X	
Electrical machinery and equipment											X	X	
Sign making											X	X	
Record pressing											X	X	
Book binding											X	X	
Date processing service											X	X	

Printing & publishing											X	X
Rubber & plastic products, except rubber manufacture											X	X
Fabricated metal products & machinery											X	X
Food & beverage products except animal slaughter, stockyards & rendering											X	X
Brewery											X	X
Furniture and fixtures											X	X
Jewelry, silverware, plated ware, musical instruments, toys, sporting goods, office, art supplies											X	X
Leather products											X	X
Lumber & wood products												X
Paperboard containers & boxes											X	X
Scrap metal processors												C
Stone, clay, glass & related mineral products, mortar, plaster paving materials												C
Textile & apparel products											X	X
Tobacco products											X	X
Transportation, equipment including motor vehicles, aircraft & parts, boat building railroad equipment, motorcycles bicycles & parts											C	X
<u>UNDEVELOPED AND VACANT</u>												
Agriculture & forestry	X	X	X	X	X	X	X	X	X	X	X	X
Yard areas, green belt & open spaces, wildlife habitat refuge, hiking, nature, bike trails & related uses	X	X	X	X	X	X	X	X	X	X	X	X
USES PERMITTED	R-1, R-1a, R-2A	R-2	R-3	R-TH	MH	NC	MPO	SCC	CB	GC	RI	GI
Circuses, carnivals and similar transient enterprises								C	C	C	C	C
Erosion & sedimentation control measures, facilities & districts	X	X	X	X	X	X	X	X	X	X	X	X
Flood proofing and flood hazard reduction structures	X	X	X	X	X	X	X	X	X	X	X	X
Open water including ponds, lakes and reservoirs, streams & waterways (all man-made)	C	C	C	C	C	C	C	C	C	C	C	C

These activities will not be permitted in any zoning district in Brownsville:

Abrasive, asbestos and non-metallic
 Mineral processing
 Explosive Manufacturing and Storage
 Offal Processing
 Petroleum Refining
 Radioactive Waste Handling
 Tannery

Arsenals
 Automobile Wrecking yards
 Fat Rendering
 Ore Reduction
 Pulp Manufacturing
 Rock Crushing
 Smelting and refining of Metals and Alloys

Atomic Reactors
 Drag Strip
 Fireworks Manufacturing
 Paper Mill
 Race Track
 Slaughtering

Footnotes:

¹Only day care centers, group day care homes, and family day care homes, run by churches on their own premises, are permitted in R-1, R-2, and R-3, R-TH and MH Districts.

²But not including major electric transmission lines and major fuel transmission lines.

³No establishment shall occupy more than 2500 square feet in gross floor area.

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2.03 PROVISIONS FOR OFFICIAL ZONING MAP

A. Incorporation of Map

The boundaries of districts established by this ordinance are shown on the official zoning map that is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments shall be as much a part of this ordinance as is fully set forth and described herein.

B. Identification and Alteration of the Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in 3.04 of Ordinance Number _____ of the City of Brownsville, Tennessee," together with the date of the adopting of this ordinance.

If, in accordance with the provisions of this ordinance and Section 13-7-201 Tennessee Code Annotated, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of Mayor and Aldermen. A statement shall be included "By official action of the Board of Mayor and Aldermen, the following change(s) was made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Clerk.

No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under state law.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Building Inspector shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.

C. Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Mayor and Aldermen may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The New Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that the Official Zoning Map supersedes and replaces the Official Zoning Map adopted

_____ as part of Ordinance No. _____ for the City of Brownsville, Tennessee."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts there of remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

2.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

A. Rules

When uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsection (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by scale of map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections (1) through (6) above, the Board of Zoning Appeals shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Appeals may permit the extension of the regulations for either portion of the lot not to exceed 500 feet beyond the district line into the remaining portion of the lot.

CHAPTER 3: PROVISIONS FOR RESIDENTIAL DISTRICTS

3.01 STATEMENT OF PURPOSE

A. General Purposes of Residential Districts

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

- (1). To provide sufficient space in appropriate locations for residential developments to meet adequately the housing needs of the present and expected future population for a variety of choices in site selections;
- (2). To permit improved movement on the public ways and to utilize effectively existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly, all through traffic, in residential areas;
- (3). To protect residential areas against undue congestion, as far as possible, by relating the density of population, the intensity of activity, and the surrounding land and to one other, and by providing off-street parking spaces for automotive vehicles;
- (4). To require the provision of open space in residential areas wherever practicable; and to encourage the provision of better standards of open space by permitting moderately larger bulk, higher density, and greater intensity with better standards of open space, in order to open up residential areas to light and air, to provide open areas for rest and creation, and to break the monotony of continuous building bulk, and thereby to provide a more desirable environment for municipal living;
- (5). To provide appropriate space for public and private educational, religious, recreational, and similar facilities and public utilities which serve the needs of nearby residents and which do not create objectionable influences; and to coordinate the intensity of residential land use with the appropriate community facilities;
- (6). To provide a zoning framework conducive to freedom of architectural design in order to encourage the development of more attractive and economical building forms;
- (7). To promote the most desirable use of land and direction of building development in accordance with a well-considered land use 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 community's tax revenues.
- (8). To exclude from these districts all buildings and other structures and uses having commercial characteristics whether operated for profit or otherwise except that conditional uses and home occupations specifically provided for in these regulations shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

3.02 R-1 - LOW DENSITY RESIDENTIAL DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for low-density residential development characterized by an open appearance. The residential development will consist of single family detached dwellings and accessory structures. These districts also include community facilities, public utilities, and open uses that serve specifically the residents of these districts. Further, it is the intent of this ordinance that these districts be located so that the provisions of appropriate municipal services will be physically and economically feasible and so that provision is made for the orderly expansion and maintenance of municipal residential development.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -

Single family detached

INSTITUTIONAL - limited to -

Day care centers, family day care homes and group day care homes, provided they are run by a church and on the premises of the church, parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for the use of the residents;

c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

d. Accessory uses or structures customarily incidental to the above permitted uses.

e. Above or below ground storm shelters provided that they are screened with adequate fencing or landscaping as to conceal the shelter. If landscaping is used as a screen, reasonable time will be allowed for concealment.^{xiii}

3. Conditional Uses

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit libraries, museums, art galleries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-1 Low Density Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-1 Districts, the minimum required lot area shall be 15,000 square feet.

2. Minimum Lot Width at the Building Line

Within the R-1 Districts, the width of a lot at the building line shall be at least one hundred (100) feet.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards; obstructions prohibited at street intersections, exception to these provisions and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-1 Districts.

a. Front Yards

In all R-1 Districts, front yards shall be a minimum of forty (40) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards

Interior Lots – Minimum of 15 feet

Corner lots: Street side - 40 feet

Non-street side - 15 feet

c. Rear Yards

In all R-1 Districts, rear yards shall be a minimum of twenty-five (25) feet.

E. Site Plan Review for Community Facility Uses

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:
 - a. Be drawn on a scale of 1" = 100
 - b. Include the following:
 - All existing and proposed roads and drainage ways;
 - Curb cuts, drives and parking areas;
 - Landscaping and planting screen;
 - Building lines enclosing the portion of the tract within which the buildings are to be erected;
 - The proposed use of the land and building;
 - The existing zoning.
 - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville;
 - e. Show the relation of the proposed development to:
 - The street system
 - The surrounding use district, and
 - Surrounding properties
 - f. Bear a certificate by a licensed civil engineer, architect or surveyor, certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by: The Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements as shown on the plan.

2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
3. The certification required of the owner and trustee of the mortgage in 3.02 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

3.03 R-1A - MEDIUM DENSITY SINGLE FAMILY DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for medium density residential development where appropriate municipal services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Generally, single family detached dwellings will characterize these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -

Single family detached

INSTITUTIONAL - limited to -

Day care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church, parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation
 Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;

c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-1A Medium Density Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-1A Districts, the minimum required lot area for one-family detached dwelling shall be 8,000 square feet.

2. Minimum Lot Width at the Building Line
Within the R-1A Districts, the width of a lot at the building line shall be at least sixty (60) feet.
3. Maximum Height
The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions
General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.
2. Basic Provisions
The basic yard regulations appearing below apply to all zone lots located within R-1A Districts.
 - a. Front Yards
In all R-1A Districts, front yards shall be a minimum of thirty (30) feet. On double frontage lots and corner lots, there shall be a front yard on each street.
 - b. Side Yards
Interior Lots – Minimum of ten (10) feet
Corner lots – Street side - 30 feet
Non-street side – 10 feet
 - c. Rear Yards
In all R-1A Districts, rear yards shall be a minimum of twenty (20) feet.

E. Site Plan Review for Community Facilities and Duplex Developments with Private Streets or Private Drives

Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

1. The site plan shall include:
 - a. Name of development and address.
 - b. Name and address of owner of record and the applicant.
 - c. Scale of 1" - 50' or larger.
 - d. Note present zoning classification of the site and all abutting properties. Also, note nature of proposed use.
 - e. Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
 - f. Courses and distances of centerlines of all streets.

- g. All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
 - h. The acreage or square footage of the lot.
 - i. Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed-line illustrating contours.
 - j. A certificate by a licensed civil engineer, architect or land surveyor certifying that the plan, as shown, is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
 - k. A vicinity map showing the relationship of the proposed development to Brownsville.
 - l. A form for certification of approval by the Secretary of the Planning Commission.
 - m. A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.
2. The site plan shall show the location, dimensions, site and height of the following:
 - a. roads, streets, alleys, easements and utilities.
 - b. Buildings and structures including the front (street), side and rear elevations of proposed buildings.
 - c. Public sewer systems.
 - d. Slopes, terraces, and retaining walls.
 - e. Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
 - f. Water mains and fire hydrants.
 - g. The following when applicable:
 - (1).Number of dwelling units.
 - (2).Number, size of parking stalls and type of pavement (either portland concrete or asphalt).
 - (3).Number of loading spaces and type of proposed pavement (either portland concrete or asphalt).
 - h. Plans for the collection and discharge of storm water and methods for landscaping. The delineation of the limits of floodplains, if any. Also the site plan must denote the minimum 100-year, base flood elevation level if any portion of the site lies within the FEMA-designated, special flood hazard area.
 - i. Proposed grading and drainage plan with calculations.

- j. Detailed plans for landscaping and required screens.
- 3. The Planning Commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
- 4. The Planning Commission, within sixty (60) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
- 5. The certification required of the owner and trustee of the mortgage in 3.03 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
- 6. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

3.04 R-2 - MEDIUM DENSITY RESIDENTIAL DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for medium density residential development where appropriate municipal services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Generally, these districts will be characterized by single family detached dwellings.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -

Single family detached

Two-Family (duplex)

INSTITUTIONAL - limited to-

Day Care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church, Parks, playgrounds and playfields

PUBLIC UTILITIES -limited to-

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and

Waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;

c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

RESIDENTIAL DWELLINGS - limited to -

Two Family (Duplex) provided there are located in areas that contains a prevalence of existing duplexes

INSTITUTIONAL - limited to-

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit museums, art galleries,

Libraries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and

Waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-2 Medium Density Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-2 Districts, the minimum required lot area for one-family detached dwelling shall be 8,000 square feet. An additional 2,000 square feet shall be required for two-family (duplex) dwellings.

2. Minimum Lot Width at the Building line

Within the R-2 Districts, the width of a lot at the building line shall be at least sixty (60) feet. A minimum lot width at the building line of seventy (70) feet shall be required for duplexes.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-2 Districts.

a. Front Yards

In all R-2 Districts, front yards shall be a minimum of thirty (30) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards

Interior Lots: Minimum of ten (10) feet

Corner lots: Street side -30 feet

Non-street side: 10 feet

c. Rear Yards

In all R-2 Districts, rear yards shall be a minimum of twenty (20) feet.

E. Site Plan Review for Community Facilities and Duplex Developments with Private Streets or Private Drives

Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

1. The site plan shall include:
 - a. Name of development and address.
 - b. Name and address of owner of record and the applicant.
 - c. Scale of 1" - 50' or larger.
 - d. Note present zoning classification of the site and all abutting properties.
 - e. Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
 - f. Courses and distances of centerlines of all streets.
 - g. All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
 - h. The acreage or square footage of the lot.
 - i. Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed line-illustrating contours.
 - j. A certificate by a licensed civil engineer, architect or land surveyors certifying that the plan as shown is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
 - k. A vicinity map showing the relationship of the proposed development to the City of Brownsville.
 - l. A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.
2. The site plan shall show the location, dimensions, site and height of the following:
 - a. Sidewalks, streets, alleys, easements and utilities.
 - b. Buildings and structures including the front (street) side and rear elevations of proposed buildings.
 - c. Public sewer systems
 - d. Slopes, terraces, and retaining walls.
 - e. Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
 - f. Water mains and fire hydrants.
 - g. The following when applicable:

- (1) Number of dwelling units
 - (2) Number and size of parking stalls and type of proposed pavement (either portland concrete or asphalt).
 - (3) Number of loading spaces and type of proposed pavement (either portland concrete or asphalt).
- h. Plans for the collection and discharge of storm water and methods for landscaping. The delineation of the limits of floodplains, if any. Also, the site plan must denote the minimum 100 year, base flood elevation level if any portion of the site lies within the FEMA-designated special flood hazard area.
 - i. Proposed grading and drainage plan with calculations
 - j. Detailed plans for landscaping and required screens.
3. The Planning Commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
 4. The Planning Commission, within sixty (60) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
 5. The certification required of the owner and trustee of the mortgage in 3.03 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 6. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

3.05 R-2A - MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for medium density residential development where appropriate municipal services and facilities are provided or

where the extension of such services and facilities will be physically and economically feasible. Single family detached dwellings will characterize these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -

Single family detached

INSTITUTIONAL - limited to -

Day care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church, Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;

c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;

d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to –

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-2A Medium Density Single-Family Residential Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-2A Districts, the minimum required lot area for one-family detached dwelling shall be 8,000 square feet.

2. Minimum Lot Width at the Building Line

Within the R-2A Districts, the width of a lot at the building line shall be at least sixty (60) feet.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-2A Districts.

a. Front Yards

In all R-2A Districts, front yards shall be a minimum of thirty (30) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards

Interior Lots - Minimum of ten (10) feet

Corner lots: Street side - 30 feet

Non-street side - 10 feet

c. Rear Yards

In all R-2A Districts, rear yards shall be a minimum of twenty (20) feet.

E. Site Plan Review for Community Facilities

Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

1. The site plan shall include:
 - a. Name of development and address.
 - b. Name and address of owner of record and the applicant.
 - c. Scale of 1" - 50' or larger.
 - d. Note present zoning classification of the site and all abutting properties. Also, note nature of proposed use.
 - e. Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
 - f. Courses and distances of centerlines of all streets.
 - g. All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
 - h. The acreage or square footage of the lot.
 - i. Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed line illustrating contours.
 - j. A certificate by a licensed civil engineer, architect or land surveyor certifying that the plan as shown is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
 - k. A vicinity map showing the relationship of the proposed development to Brownsville.
 - l. A form for certification of approval by the Secretary of the Planning Commission.
 - m. A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.
2. The site plan shall show the location, dimensions, site and height of the following:
 - a. Sidewalks, streets, alleys, easements and utilities.
 - b. Buildings and structures including the front (street), side and rear elevations of proposed buildings.
 - c. Public sewer systems.
 - d. Slopes, terraces, and retaining walls.

- e. Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
 - f. Water mains and fire hydrants.
 - g. The following when applicable:
 - (1) Number of dwelling units.
 - (2) Number and size of parking stalls and type of proposed pavement (either portland concrete or asphalt).
 - (3) Number of loading spaces and type of proposed pavement (either portland concrete or asphalt).
 - h. Plans for the collection and discharge of storm water and methods for landscaping. The delineation of the limits of floodplains, if any. Also the site plan must denote the minimum 100 year, base flood elevation level if any portion of the site lies within the FEMA-designated, special, flood, and hazard area.
 - i. Proposed grading and drainage plan with calculations.
 - j. Detailed plans for landscaping and required screens.
3. The Planning Commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
 4. The Planning Commission, within sixty (60) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
 5. The certification required of the owner and trustee of the mortgage in 3.03 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 6. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

3.06 R-3 - HIGH DENSITY RESIDENTIAL DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for high density residential development where appropriate municipal services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Generally, these districts will be characterized by single-family detached dwellings duplexes, and multiple family dwellings.

These districts also include community facilities, public utilities, and open uses that serve the residents of these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -

- Single family detached
- Two-family (duplex)
- Multiple family structures

INSTITUTIONAL - limited to -

Day care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church, parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Private Streets
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

- Circuses, carnivals and similar transient enterprises
- Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

- a. Private garages and parking areas;
- b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;
- c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops; and except home occupations shall not be permitted in multi-family dwellings.
- d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Country Clubs

Community centers

Orphanages

All golf courses

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Police and fire stations

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Electric or gas substations

Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-3 Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-3 Districts, the following minimum lot areas shall be required:

Single-family Detached Dwellings - 6,000 square feet

Duplex Dwellings - 10,000 square feet

Triplex Dwellings – 16,000 square feet

Quadplex Dwellings – 20,000 square feet

More than four Dwelling units - 20,000 sq. ft. plus 2000 sq. ft. for every dwelling unit in excess of four units

2. Minimum Lot Width at the Building Line

Single-family Detached Dwellings – 60 feet

Duplex Dwellings – 70 feet

Triplex Dwellings – 100 feet

Quadplex Dwellings – 125 feet

More than four dwelling units – 150 feet

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade.

However, this limitation shall not apply to these uses spelled out in 1.04 (D) Exception on Height Limitations.

4. Minimum Spacing between Buildings (Multi-family Dwellings)

In multifamily developments within R-3 zones the following spacing shall be required between buildings:

- a. End to End - 20 feet
- b. End to Side - 25 feet
- c. Side to Side - 30 feet
Side shall mean the building facade or elevation with the longest horizontal axis.

End shall mean the building facade or elevation with the shortest horizontal axis.

D. Yard Requirements

1. General Provisions

General provisions applicable to residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-3 Districts.

a. Minimum Depth of Front Yards

- (1) Single-family Dwellings - 25 feet
- (2) Duplex Dwellings - 30 feet
- (3) Multi-family Dwellings - 40 feet. Such space may be part of the required open space but may not be used for parking
- (4) All other uses - 50 feet or more if required by the BZA

b. Minimum Width of Side Yards

- (1) Single-family Dwellings 10 feet
- (2) Duplex Dwellings 15 feet
- (3) Multi-family Dwellings 30 feet. Such space may be part of the required open space but may not be used for parking areas, driveways or the storage of refuse containers.
- (4) All other uses - 20 feet or more if required by the Board of Zoning Appeals

c. Minimum Depth of Rear Yards

- (1) Single-family Dwellings - 15 feet
- (2) Duplex Dwellings - 20 feet

- (3) Multi-family Dwellings - 30 feet. Such space may be part of the required open space but may not be used for parking areas, driveways or the storage of refuse containers.
- (4) All other uses - 25 feet or more if required by the Board of Zoning Appeals

E. Open Space Requirement for Multi-family Developments

1. Minimum Open Space Requirement

Minimum open space requirement shall not be less than 40% of the total lot area.

a. Open Space Defined

Open space is outdoor living space for the residents and for ascetic appeal. Such space shall include lawns and other landscaped areas, walkways, outdoor sitting areas and outdoor recreation areas, exclusive of required parking areas and driveways.

F. Screening Requirements for Multi-family Developments

1. Screening requirements vary by the purpose for which they are intended. For the purposes of this section, two types of conditions require screening: Privacy separations

2. Performance Criteria

- a. Screens are intended to provide visual and physical separation of conflicting uses, and should be designed so that they are an orderly part of the landscape and do not dominate the view.
- b. Screens should not compromise safety by blocking vision at intersections. Elements requiring screening should not be placed to impede vision of any street corner as referenced in Section 1.05 of this Zoning Ordinance. Screens should not be placed so as to obstruct visibility of vehicles entering or leaving driveways. No screen or fence over 2 to 6 feet should be placed in front yards.
- c. Fences and screens should not impede or divert the flow of water in any drainage way.
- d. The maximum height for fences is 6 feet, except for tennis courts that may be 10 feet. Screening of service areas must be at least 6 feet and no more than 8 feet.

3. Privacy screening shall be required in multi-family housing areas to separate such areas from adjacent single-family or duplex lots.

- a. Fences designated to create privacy should be made of masonry, ornamental metal or durable wood, or some combination of the three. The use of chain link, plastic or wire is not permitted for fences. Fences along roadways shall have, brick columns located 50 feet on center maximum.
- b. Solid fences should not create a stockade appearance. This can be accomplished in a number of ways, including adding an evergreen screen on both sides of the fence or by undulating the plan of the fence.

4. Garbage collection areas shall be conveniently located for the residents as determined by the Brownsville Planning Commission and shall be enclosed by opaque materials on all four sides, with doors to remove front end dumpsters. The following criteria shall apply:
 - a. Dumpster enclosures shall be located on a concrete pad - the size of pad as recommended by the City Sanitation Department.
 - b. The screening on all enclosed dumpsters shall be at least 2 feet taller than the dumpster.
 - c. All garbage collection areas shall be in compliance with all Water Pollution Control Regulations of the State of Tennessee.

G. Site Plan Review for Community Facilities, Duplex Developments with Private Streets or Private Drives, and Multi-family Uses

Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

1. The site plan shall include:
 - a. Name of development and address.
 - b. Name and address of owner of record and the applicant.
 - c. Scale of 1"=50' or larger.
 - d. Note present zoning classification of the site and all abutting properties. Also, note nature of proposed use.
 - e. Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
 - f. Courses and distances of centerlines of all streets.
 - g. All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
 - h. The acreage or square footage of the lot.
 - i. Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed-line illustrating contours.
 - j. A certificate by a licensed civil engineer, architect or land surveyor certifying that the plan as shown is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
 - k. A vicinity map showing the relationship of the proposed development to Brownsville.
 - l. A form for certification of approval by the Secretary of the Planning Commission.

- m. A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.
2. The site plan shall show the location, dimensions, site and height of the following:
 - a. Sidewalks, streets, alleys, easements and utilities.
 - b. Buildings and structures including the front (street), side and rear elevations of proposed buildings.
 - c. Public sewer systems.
 - d. Slopes, terraces, and retaining walls.
 - e. Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
 - f. Water mains and fire hydrants.
 - g. The following when applicable:
 1. Number of dwelling units.
 2. Number and size of parking stalls and type of proposed pavement (either portland concrete or asphalt).
 3. Number of loading spaces and type of proposed pavement (either portland concrete or asphalt).
 - h. Plans for the collection and discharge of storm water and methods for landscaping. The delineation of the limits of floodplains, if any. Also the site plan must denote the minimum 100-year, base flood elevation level if any portion of the site lies within the FEMA-designated, special, flood, and hazard area.
 - i. Proposed grading and drainage plan with calculations.
 - j. Detailed plans for landscaping and required screens.
3. The Planning Commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
4. The Planning Commission, within sixty (60) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
5. The certification required of the owner and trustee of the mortgage in 3.03 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If,

during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

6. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

H. Design Standards for Multi-Family Dwellings

1. Purpose

It is the express purpose of these provisions to establish design criteria to regulate proposed development and to guide the Planning Commission in its review of Site Plans. The Planning Commission may use these standards in requiring amendments to site plans and in determining the appropriateness of such plans for approval.

2. Open Space Requirements

Common open space must be suitably improved and landscaped for its intended use. Common open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements that are permitted in the common open space must be appropriate to the uses that are authorized for the common open space, having regard for its topography and unimproved condition.

3. Access

- a. Every structure shall be on a lot adjacent to a public street or with access to an approved private street or private drive.
- b. Access and circulation shall provide adequately for firefighting equipment, services deliveries, furniture, moving vans, and refuse collection.
- c. Adequate paved pedestrian access shall be provided for each dwelling.

4. Grouped Parking Facilities

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one parking space per dwelling shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit that the space is to serve. When appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

5. Privacy

Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walls, and landscaping shall be provided for the protection and privacy of the occupants, and as a means of screening objectionable views or uses and of reducing noise.

6. Walks

Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

7. Recreation Areas

Adequate recreational facilities for the residents of the project may be required in a location which is accessible to the living units and which does not impair the view and privacy of the living units.

Attractive outdoor sitting areas may be required which are, appropriate in size, type and number to the needs of the residents. Active recreation areas may be required which are appropriate for the needs of the residents. Well-equipped playgrounds of adequate size may be required where it is anticipated that children will occupy the premises.

8. Planting

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

9. Retention of Large Trees

- a. Trees greater than 8" in caliper are to be shown on the site plan and protected wherever possible.
- b. When the site layout makes it necessary to remove a tree having a caliper of 8" or more, the tree must be replaced on site as near as practical to where the tree was removed. Replacement must match the tree's caliper by reaching an equivalent multiple, (e.g. 24" caliper tree could be replaced by six 4" caliper trees or eight 3" caliper trees. This replacement requirement shall apply in addition to normal landscape requirements, but may be waived to the extent necessary where development is proposed for heavily wooded areas.

10. Design Review

The criteria to be considered by the Planning Commission in determining whether a proposed structure(s) will conform to proper design standards and the general character of the area are as follows:

- a. The plan for the proposed structure(s) is in conformity with appropriate and acceptable architectural standards, the general character of the surrounding neighborhood and the community and the orderly development of the community.

- b. The plan for the proposed structure(s) indicates that the structure(s) is reasonably protected against internal and external noise, vibrations, and other conditions that might tend to make the environment less desirable.
- c. The proposed structure(s) is not in its exterior design and appearance, of such inferior quality as to cause the area to depreciate in appearance or value.
- d. The proposed development is in compliance with all applicable ordinances and statutes governing the location and appearance of buildings and structures.

3.07 R-TH - TOWNHOUSE DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for townhouse residential development where appropriate municipal services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. These districts will be characterized by townhouse attached dwellings on subdivided lots.

These districts also include community facilities, public utilities, and open uses that serve the residents of these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -
Townhouse (as defined by this ordinance)

INSTITUTIONAL - limited to -

Day care centers, group day care homes and family day care homes, provided they are run by a church and on the premises of the church.

Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;

- c. Home occupations as defined and subject to the provisions of this Ordinance; except beauty shops;
- d. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -

- Place of worship
- School, public or private, grades K-12
- Country Clubs
- Community centers
- Orphanages
- All golf courses
- Public, parochial and private non-profit museums, art galleries, libraries and observatories
- Police and fire stations
- Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

- Electric or gas substations
- Reservoirs and water tanks
- Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

- Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by Right, by Accessory or by conditional use is prohibited in the R-TH Districts.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the R-TH Districts, the minimum lot area for each single family attached dwelling shall be 2,600 square feet.

2. Minimum Lot Width at the Building Line

For Single-family detached dwellings, the width of a lot at the building line shall be no less than twenty (20) feet.

3. Maximum Lot Coverage

The maximum lot coverage for each single family attached dwelling shall be forty (40) percent of the lot for each dwelling.

4. Minimum Spacing between Townhouse Buildings

The minimum spacing between townhouse buildings (end to end) shall be twenty (20) feet.

5. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to these uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within R-TH Districts.

a. Front Yards

In all R-TH Districts, front yards shall be a minimum of seventy-five (75) feet. On double frontage lots and corner lots and corner lots, there shall be a front yard on each street.

b. Side Yards

In all R-TH Districts, side yards shall be a minimum of ten (10) feet, except that no side yard is required for townhouse dwellings having adjoining walls.

c. Rear Yards

In all R-TH Districts, rear yards shall be a minimum of twenty-five (25) feet.

E. Site Plan Review for Community Facilities or Townhouses

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-Proposed townhouse lots;

-Location of all proposed buildings;

-Location of all existing streets and the location and layout of all proposed public streets, private drives, service streets, alleys, etc;

-All existing and proposed drainage ways;

-Curb cuts, drives and parking areas;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

- c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville;
 - e. Show the relation of the proposed development to:
 - The street system
 - The surrounding use district, and
 - Surrounding properties.
 - f. Bear a certificate by a licensed civil engineer, architect, or surveyor, certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any requirement improvements of adjacent streets as shown on the plan.
2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revision being required of the applicant.
 3. The certification required of the owner and trustee of the mortgage in 4.05 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

F. Design Standards for Multi-Family Dwellings

1. Purpose

It is the express purpose of these provisions to establish design criteria to regulate proposed development and to guide the Planning Commission in its review of Site Plans.

2. Open Space Requirements

Common open space must be suitably improved for its intended use, common open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements that are permitted in the common open space must be appropriate to the uses that are authorized for the common open space, having regard for its topography and unimproved condition.

3. Access

- a. Every structure shall be on a lot adjacent to a public street or with access to an approved private street.
- b. Access and circulation shall provide adequately for firefighting equipment, services deliveries, furniture, moving vans, and refuse collection.

4. Privacy

Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walls, and landscaping shall be provided for the protection and privacy of the occupants, and as a means of screening objectionable views or uses and of reducing noise.

5. Recreation Areas

Adequate recreational facilities for the residents of the project shall be provided in a location which is accessible to the living units and which does not impair the view and privacy of the living units.

Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Well-equipped playgrounds of adequate size shall be provided where it is anticipated that children will occupy the premises.

6. Planting

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

G. Subdivision Plat Requirement

A subdivision plat for townhouse development shall be submitted the Planning Commission for review and approval according to the subdivision plat review procedures of the City of Brownsville prior to Site Plan consideration by the Planning Commission. Such subdivision plat shall be separate and apart from an approved Site Plan but shall conform in lot layout, public improvement dedications, lot shape, and lot size to the proposed Site Plan for the development. The proposed Site Plan and

subdivision plat for a development may be approved at the same time providing that the above requirements are met.

3.08 MH - MOBILE HOME PARK RESIDENTIAL DISTRICTS

A. Purpose and Intent

These districts are designed to provide suitable areas for mobile home park residential development where appropriate municipal services and facilities are provided or where the extension of such services and facilities will be physically and economically feasible. Single-family mobile home dwellings in mobile home parks and accessory structures will characterize these districts. These districts also include community facilities, public utilities and open uses that serve the residents of these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL DWELLINGS - limited to -
Mobile Home Parks

INSTITUTIONAL - limited to -
Parks, playgrounds and playfields

PUBLIC UTILITIES - limited to -

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

a. Private garages and parking areas;

b. Private swimming pools, tennis courts and other outdoor recreation facilities exclusively for use of the residents;

c. Accessory uses or structures customarily incidental to the above permitted uses.

3. Conditional Uses

INSTITUTIONAL - limited to -
Temporary non-profit festivals

PUBLIC UTILITIES - limited to -
Electric or gas substations
Reservoirs and water tanks

Water production, treatment facility

UNDEVELOPED AND VACANT - limited to -

Open water including ponds, lakes and reservoirs, streams and wastewaters (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the MH-Mobile Home Park Residential Districts.

C. Bulk Regulations

The bulk regulations appearing below apply to buildings or other structures located on any zone lot or portion of a zone lot, including all new developments, enlargements, extensions or conversions located in any MH-District.

1. Minimum Required Lot Area

Within the MH-Districts, the minimum lot area for a mobile home park shall be two (2) acres.

2. Minimum Mobile Home Plot Size

Within the MH-Districts, the minimum plot sizes for an individual mobile home in the mobile home park shall be 4,500 square feet.

3. Maximum Height

The maximum height of any portion of a mobile home shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limits.

D. Yard Requirements

1. General Provisions

General provisions applicable to residential districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all individual mobile home plots located in the mobile home park.

a. Front Yards

In all MH-Districts, front yards for individual mobile home plots shall be a minimum of twenty-five (25) feet.

b. Side Yards

In all MH-Districts, side yards for individual mobile home plots shall be a minimum of ten (10) feet.

c. Rear Yards

In all MH- Districts, rear yards for individual mobile home plots shall be a minimum of ten (10) feet.

d. Park Buffer

Around all mobile home parks there shall be provided a twenty (20) foot wide buffer area in addition to the yard requirements above. Landscaping and screening shall be provided.

E. Site Plan Review for Community Facilities and Mobile Home Parks

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:
 - a. Be drawn on a scale of 1" = 100';
 - b. Include the following:
 - All existing and proposed roads and drainage ways;
 - Curb cuts, drives and parking areas;
 - Landscaping and planting screens;
 - Building lines enclosing the portion of the tract within which the buildings are to be erected;
 - The proposed use of the land and buildings;
 - The existing zoning;
 - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville;
 - e. Show the relation of the proposed development to:
 - The street system
 - The surrounding use district, and
 - Surrounding properties.
 - f. Bear a certificate by a licensed civil engineer, architect, or surveyor, certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan, and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission, within thirty (30) days shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to revisions being required of the applicant.

3. The certification required of the owner and trustee of the mortgage in 4.06 (E) (1) (h) of this ordinance shall serve as the commitment by the owner that the Site Plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

F. Special Provisions for Mobile Homes

Due to the unique characteristics of mobile homes, the following restrictions are applied in order to eliminate the adverse effects of such structures and at the same time, permit such structures as an alternative form of housing.

1. Mobile homes shall be permitted only in those locations designated on the Brownsville Zoning Map as MH-Mobile Home Park Residential Districts. No traditional housing units shall be permitted in these districts in order to prevent a mixture of the two types of structures.
2. All mobile homes permitted under this section shall be set upon concrete blocks or steel piers which are constructed upon a concrete footing and each mobile home shall be anchored with approved anchors.
3. The Board of Appeals may require other conditions as needed in order to protect the inhabitants of the mobile home and preserve the character of the district.

G. Regulations for Establishment of Mobile Home Park

1. Licenses and License Fee

- a. No mobile home may be located in the City of Brownsville unless the same shall be in an approved and duly licensed Mobile Home Park.
- b. It shall be unlawful for any person to maintain or operate within the corporate limits of the City of Brownsville any mobile home park unless such person shall first obtain a license for that park.
- c. Licenses shall not be transferable.
- d. The annual license fee for each mobile home park shall be equal to but not greater than the amount allowed by the State Business Tax.
- e. The license shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.

2. Application for License

Applications for a mobile home license shall be filed with and issued by the Building Inspector. Applications shall be in writing signed by the applicant and shall contain the following:

- a. The name and address of the applicant.
- b. The location and legal description of the mobile home park.
- c. The complete plan of the park showing compliance with Sections 3.06 (E) and 3.06 (G) (4).
- d. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. The sketch shall be drawn to scale showing the number and arrangement of mobile home lots, roadways, water supply, water outlets, location and type of sewage, liquid and garbage disposal and location of other facilities.
- e. Such further information as may be requested by the Building Inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The Building Inspector and the Health Office shall investigate the applicant and inspect the proposed plans and specifications. If the proposed mobile home park will be in compliance with all provisions of this ordinance, the Building Inspector shall approve the application and upon completion of the park according to the plans, shall issue the license.

3. Revocation of License

The Health Officer shall make periodic inspection of the park to insure compliance with this ordinance. In case of non-compliance with any provisions of this ordinance, the Health Office shall serve warning to the licensee. Thereafter, upon failure of the licensee to remove said violation, the Health Officer shall recommend to the Board of Mayor and Aldermen revocation of the license. The City Board shall hold a hearing on the matter and upon determination of non-compliance revoke said license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law.

4. Specifications for Mobile Home Park Plan

The mobile home park shall conform to the following requirements:

- a. The park shall be located in a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water.
- b. The minimum required lot area for a mobile home park shall be two (2) areas.
- c. Mobile home spaces shall be clearly defined and mobile homes parked so that there will be at least fifteen (15) feet of clear space between mobile homes or any accessory structure, such as a garage or fifteen (15) feet between mobile homes and any buildings or structures. No mobile home shall be located closer than thirty (30) feet to any public street or highway.

- d. The minimum plot size for an individual mobile home in the mobile home park shall be 4,500 square feet.
- e. The minimum yard requirements for all individual mobile home plots in the mobile home park are:
 - (1) Front Yards for individual mobile home plots shall be a minimum of twenty-five (25) feet.
 - (2) Side yards for individual mobile home plots shall be a minimum of ten (10) feet.
 - (3) Rear yards for individual mobile home plots shall be a minimum of fifteen (15) feet.
- f. All mobile home spaces shall abut upon a driveway of not less than thirty (30) feet in width which shall have unobstructed access to a public street. All driveways shall be lighted at night with 25-watt lamps at intervals of one hundred (100) feet located approximately fifteen (15) feet from the ground.
- g. An electric outlet supplying at least 110-220 volts shall be provided for each mobile home space, and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, and Tennessee Department of Insurance and Banking Regulations No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the electric service organization.
- h. An adequate supply of water under pressure from a source and of a quality approved by the Tennessee Department of Public Health shall be provided; where possible, approved municipal water supplies shall be used. Water shall be piped to each mobile home lot. Adequate water supply for fire protection must be provided.
- i. Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be securely fastened in place, and adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located neither in a mobile home, nor within five (5) feet of a door thereof.
- j. Waste from laundries shall be discharged into a public sewer in compliance with applicable ordinances or into a private sewer disposal plant in such manner to conform to the specifications of the Health Officer. All kitchen sinks, washbasins, bath or shower tubs in any mobile home in any park shall empty into the sanitary sink drain located on the mobile home space. Mobile home parks within three hundred (300) feet of the municipal sewer shall connect to it, with approved and properly sized lines.
- k. Refuse storage, collection and disposal shall be in accordance with other regulations and ordinances of the City of Brownsville.

- l. The Mobile Home Park shall be subject to the rules and regulations of the fire-prevention authorities having jurisdiction.
 - m. No permanent additions of any kind shall be built onto, nor becomes a part of, any mobile home. All mobile homes shall be set on concrete blocks or steel piers which are constructed upon a concrete footing and each mobile home shall be anchored with approved anchors.
 - n. All service buildings, mobile homes, mobile home spaces and the grounds of the park shall be maintained in a clean slightly condition and kept free of any conditions that will menace the health of any occupant of the public or constitute a nuisance.
5. Register of Occupants
- It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:
- a. Name and address of each occupant;
 - b. The make, model and year of all mobile homes;
 - c. License number and owner of each mobile home;
 - d. The state issuing such license;
 - e. The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

3.09 PRD - Planned Residential District

A. Planned Residential Developments

This section is intended to provide the means and the guidelines through which tracts of land may be developed through an overall unified approach rather than the traditional lot-by-lot treatment afforded by other districts in this Ordinance. It is intended to provide a maximum of design freedom in order to create a better living environment, by making the best use of topography and land features and by permitting the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes, the absence of yard and bulk restrictions and the planned mixing of uses. Through the requirement of a development plan, it is the intent that property under this section will be developed through a unified design providing continuity between the various elements and ultimately leading to a better environment. Increased residential densities may be permitted under this Section if such increase can be substantiated on the basis that the superior design makes greater densities possible with no reduction of amenities. This section is not intended as a panacea and should not be utilized as a device for making

increased densities more acceptable or as a means of circumventing the City's development regulations.

B. Objectives

The Board of Mayor and Aldermen may, upon proper application, rezone a site of at least three (3) acres to PRD to facilitate the use of flexible techniques of land development and site design by providing relief from zone requirements designed for conventional developments. In addition, the Board may establish standards and procedures, including restricting land uses to only those compatible to surrounding development prior to a rezoning in order to obtain one or more of the following objectives:

1. Promote flexibility in design and permit planned diversification in the location of structures.
2. Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use and utilities.
3. Preserve to the greatest extent possible the existing landscape features and amenities and to utilize such features in a harmonious fashion.
4. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures.
5. Combine and coordinate architectural styles, building forms and building relationships within the planned developments.
6. Ensure a quality of construction commensurate with other developments within the city.
7. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
8. Rational and economic development in relation to public services.
9. Efficient and effective traffic circulation, both within and adjacent to the development site.
10. Creation of a variety of housing compatible with surrounding neighborhoods to provide a greater choice of types of environments and living units.
11. The development is compatible with current City of Brownsville Future Land Use Plan, a specific small area plan, community plan or redevelopment plan.

12. Modification of design regulations are consistent with the public interest, are warranted by the design of the development and are justified by the associated amenities incorporated in the design of the development.

C. Types of Planned Residential Developments

Under this section, the following types of Planned Residential Developments (PRD) shall be permitted, subject to the stated requirements. PRD's are established by overlaying a preliminary development plan over the existing district. The overlays are as follows: PRD (Planned Residential Development) over R-1, R-2 and R-3 districts. A zoning amendment is required following the procedures outlined in this section and in accordance with Section 9.07 of this Zoning Ordinance.

D. Modification of District Regulations

Planned Residential Developments may be constructed in the above zoning districts subject to the standards and procedures set forth below:

1. Except as modified by and approved in the ordinance approving a preliminary development plan, a Planned Residential Development shall be governed by the regulations of the district or districts in which the said Planned Residential Development is located.
2. The ordinance approving the preliminary development plan for the Planned Residential Development may provide for such exceptions from the district regulations governing area, setback, width and other bulk regulations, parking, and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed Planned Residential Development, provided such exceptions are consistent with the standards and criteria contained in this section and have been specifically requested in the application for a Planned Residential Development and further provided that no modification of the district requirements or subdivision regulations may be allowed when such proposed modification would result in:
 - a. Inadequate or unsafe access to the Planned Residential Development.
 - b. Traffic volume exceeding the anticipated capacity of the proposed major street network in the vicinity.
 - c. An undue burden on public parks, recreation areas, schools, fire and police protection and other public facilities which serve or are proposed to serve the Planned Residential Development.
 - d. A development which will be incompatible with the purposes of this Ordinance.

Such exceptions shall supersede the regulations of the zoning district in which the Planned Residential Development is located. Provided, however, in no case shall the uses or densities be varied, except as herein provided, and setbacks along the boundary of the Planned Residential Development shall not be less than those allowed in the underlying zoning.

E. Coordination with Subdivision Regulations

The uniqueness of each proposal for a Planned Residential Development may require that specifications for which the width and surfacing of streets, public ways, public utility rights-of-ways, curbs and other standards may be subject to modification from the specifications established in the Subdivision Regulations adopted by the Planning Commission. Modifications may be incorporated only with the review of the Brownsville Planning Commission and approval of the Board of Mayor and Aldermen as part of its review of the Final Development Plan for a PRD and granted as a variance in the preliminary approval of the subdivision which must be concurrent with the final approval by the Planning Commission of the plan.

1. It is the intent of this Ordinance that subdivision review under the Subdivision Regulations be carried out simultaneously with the review of a Planned Residential Development under this section of the Zoning Ordinance.
2. The development plans submitted under Sub-section H. of this Section must be submitted in a form that will satisfy the requirements of the Subdivision Regulations for preliminary and final plats.
3. The requirements for both this section of the Zoning Ordinance and those of the Subdivision Regulations shall apply to all PRD's and all actions of the City Board pertaining to PRD's shall be based upon a recommendation by the Planning Commission.

F. General Provisions

The following general provisions shall apply to any Planned Residential Development Districts created by the Board Mayor and Aldermen.

1. Application for Planned Residential Development Permit Required
Each application for a Planned Residential Development shall be submitted in accordance with the requirements of these regulations and the requirements set forth in the Subdivision Regulations. Variances to the requirements of both regulations may be granted upon review of the Planning Commission and approval by the Board of Zoning Appeals.
2. Waiver of Board of Zoning Appeals Action
No action of the Board of Zoning Appeals shall be required in the approval of a Planned Residential Development District.
3. Ownership and Division of Land
No tract of land may be considered for or approved as a PRD unless such tract is under the single ownership of a landowner. For the purpose of this Ordinance, a landowner may be a person, partnership, corporation, association or any other legal entity entitled to own property. The holder of a written option to purchase, a party purchaser to a contract for the sale of real property contingent upon the success of a PRD application for the property, or any governmental agency shall

be considered landowners for the purpose of this Section. Unless otherwise provided as a condition of approval of PRD, the landowner of an adopted PRD may divide and transfer parts of such development. The transferee shall complete each section and use and maintain it in strict conformance with the final development plan.

4. Professional Design

The Brownsville Planning Commission shall not consider any development plan for any proposed Planned Residential Development, either on a preliminary or final basis, nor shall the Brownsville Board of Mayor and Aldermen concur with any preliminary development plan for a proposed Planned Residential Development unless such proposed plan includes a certification that the services of a licensed civil engineer or licensed land surveyor was utilized in the preparation of the master plan.

5. In addition to the requirement set for the in-Section F.4, adequate infrastructure facilities will be provided concurrent with development and will consist of potable water supply, proper treatment and disposal of wastewater, storm water drainage facilities, and proper storage and collection of community waste.
6. The Development will not unduly injure or damage the enjoyment of, value or use of surrounding properties and will not prevent the development of surrounding property.
7. The arrangement and location of buildings, structures, parking areas, lighting, sidewalks, infrastructure and service facilities shall be compatible with surrounding land uses, and any portion of the tract not utilized for the above-mentioned improvements shall be landscaped or otherwise improved except where natural, culturally significant, historic features, or utilization for agricultural production justify preservation of existing conditions.
8. A Property Owner's Association (POA), a Homeowner's Association (HOA) and / or other defined responsible party shall maintain any and all common open spaces, common amenities, and any other common elements defined in the proposed development.
9. Development Period; Staging
The expeditious construction of any planned residential development authorized under these provisions shall be undertaken to assist in the assurance of the full completion of the development in accordance with the adopted final development plan.
 - a. Start of Development
Within one year from and after the date of the action establishing a PRD, actual construction shall have commenced in such development. Actual construction is defined to include the placing of construction materials in a

permanent position and fastened permanently or extensive grading including demolition or removal of existing structures necessary for the development.

b. Completion Period

The Brownsville Planning Commission may recommend and the Board of Mayor and Aldermen may establish a reasonable period of time for the completion of the Planned Residential Development at the time the PRD district is established. If no substantial construction, as determined by the Building Inspector, has begun or no use established in the PRD within the time stated in the final development and construction schedule, the final development plan shall lapse upon written notice to the applicant from the City Board and shall be of no further effect. At its discretion and for good cause, the City Board, upon recommendation by the Planning Commission, may extend for a reasonable time, not to exceed one year, the period for the beginning of construction or the establishment of a use.

c. Staging of Development

The Board of Mayor and Aldermen may elect to permit the staging of development, in which case, the following provision shall be complied with:

Each stage shall be so planned and so related to existing surrounding and available facilities and services that failure to proceed to the subsequent stages will not have an adverse impact on the development or its surrounding at any stage of the development. The development staff shall review any proposed phasing plan and recommend to the Planning Commission a plan for the phasing and recommended construction of improvements including site improvements, streets, surface and subsurface drainage, water lines, sewer lines, parking areas, landscaping, plantings and screening. The Developer shall also prepare a cost estimate of the recommended improvements for bonding purposes.

d. Inactive Planned Development

1. The applicant or owner is required to enter into a Development Contract with the City of Brownsville and commence site preparation within one (1) year of receipt of notification regarding approval of the Development Plan.
2. Failure to satisfy the requirements defined in Section F shall render a Planned Residential Development to be Inactive.
3. Upon notification of a Planned Development being rendered inactive and no less than 30 days prior to the expiration of the Planned Development, the Planning Director or designee shall notify the Board of Mayor and Aldermen and the applicant or owner via certified mail that the following is required:
 - (a) A Public Hearing shall take place, the notice for which shall conform to the requirements as defined in the Zoning Ordinance.
 - (b) Subsequent to the Public Hearing, the Planning Commission shall render recommendations regarding the status of the area(s)

subject to the Planned Development based on one or more of the following considerations:

- i. Recommendation for extension, removal, or modification of the development schedule and subsequent phasing (where applicable).
 - ii. Recommendation for amendments to the Outline Plan which may modify, revoke or be in addition to conditions and amendments approved under prior consideration by the Planning Commission and Board of Mayor and Aldermen.
 - iii. Recommendation for revocation of the Planned Development.
4. Upon receipt of the Planning Commission recommendation(s), the Board of Mayor and Aldermen shall hold a public hearing and render a decision.
- e. Failure of the applicant or owner to respond within 30 days of the Planning Commission providing notice shall not delay the requirements and procedures as set forth in Section F.

10. Common Open Space and Public Facilities

A planned development shall incorporate within the site design Common Open Space to the mutual benefit of the subject development and the general public. The requirements of common open space and public facilities shall be in accordance with the provisions of this Section.

- a. Common open space must be usable for recreational purpose or must provide visual, aesthetic and environmental amenities. The uses authorized for the common open space must be appropriate to the scale and character of the Planned Residential Development considering its size, density, expected population, topography and the number and type of structures to be provided.
- b. Common open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are authorized therefore, and must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space.
- c. The development phasing sequence which is part of the preliminary development plan must coordinate the improvement of the common open space, the construction of the buildings, structures and improvements in the common open space, the construction of public improvements and the construction of residential dwellings in a Planned Residential Development, but in no event shall occupancy permits for any phase of the final development plan be issued unless and until the open space which is part of that phase has been dedicated or conveyed and improved.

- d. No common open space of a Planned Residential Development shall be conveyed or dedicated by the developer or any other person to any public body, homeowner's association or other responsible party unless the City of Brownsville Municipal-Regional Planning Commission has determined that the character and quality of the tract to be conveyed make it suitable for the purpose for which it is intended. The Planning Commission may give consideration to the size and character of the dwellings to be constructed within the Planned Residential Development, the topography and existing trees, the ground cover and other natural features, the manner in which the open space is to be improved and maintained for recreational or amenity purposes, and the existence of public parks or other public recreational facilities in the vicinity.
- e. All land shown on the final development plan as common open space may be either:
 1. Conveyed to a public body, if said public body agrees to accept conveyance and to maintain the common open space and any buildings, structures or improvements which have been placed on it; or
 2. Conveyed to an organization for ownership and maintenance subject to the following:
 - (a) The City of Brownsville Municipal-Regional Planning Commission and Brownsville Board of Mayor and Aldermen may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the City of Brownsville and said dedication be approved by the Board of Mayor and Aldermen. However, the conditions of any transfer shall conform to the adopted final development plan.
 - (b) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the Planned Residential Development fail to maintain the common open space in reasonable order and condition in accordance with the adopted final development plan, the Building Official may serve written notice upon such organization and/or the owners or residents of the Planned Residential Development and hold a public hearing. After 30 days when the deficiencies of maintenance are not corrected, the Building Official shall call upon any public or private agency to maintain the common open space.
 - (c) The cost of such maintenance by such agency shall be assessed

proportionally against the properties within the Planned Residential Development that have a right of enjoyment of the common open space and shall become a lien on said properties.

- (d) If the common open space is deeded to a Homeowners' and/or Property Owners Association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for preliminary approval. The provisions shall include but not be limited to the following:
 - i. The Association must be set up before the homes are sold.
 - ii. Membership must be mandatory for each homebuyer and any successive buyer.
 - iii. The open space restrictions must be permanent, not just for a period of years.
 - iv. The Association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities.
 - v. Homeowners/Property owners must pay their pro rata share of the cost of the assessment levied by the association to meet changed needs.
- f. At least 20% of the gross site area shall be comprised of Common Open Space.
 - 1. The sequence and phased introduction of Common Open Space shall occur in coordination with and consider the phased completion of associated private and public improvements. In no event shall certificates of occupancy be issued unless and until the associated Common Open Space has been conveyed, dedicated and improved.
 - 2. The following minimum percentage of the required Open Space shall be designed as Usable Open Space:
 - 3-5 acres: 20%;
 - 5-8 acres: 30%;
 - greater than 8 acres: 40
 - a. Usable Open Space. Eligibility for an area to be defined as Usable Open Space is determined by meeting the following required conditions:
 - i. A minimum area of 2,500 square feet.
 - ii. A minimum average dimension of 40-feet.
 - b. Usable Open Space. Eligibility for an area to be defined as Usable Open Space is determined by meeting one of the following conditions:
 - i. Land occupied by active recreational uses such as

pools, ball fields, playgrounds, tennis courts, and clubhouses used primarily for recreation purposes.

- ii. Pedestrian and multi-use trails consisting of a 6-foot minimum paved or graveled surface and associated 10-foot easement beyond the edge of pavement on both sides of the facility.
 - iii. Formally planned and regularly maintained areas including arranged plantings, gardens, community gardens, gazebos or similar structures, fountains, sculpture, and other forms of public art, squares, forecourts, plazas, private parks, or private greenbelts must be designed in accordance with the standards in this subsection to qualify as Usable Open Space.
- c. The following shall not be considered or contribute toward the Usable Open Space area unless the application satisfactorily demonstrates the area satisfies the design conditions required to be considered as Usable Open Space or as otherwise stated:
- i. Floodways except where pedestrian and multi-use trails and their associated easements may occur.
 - ii. Slopes exceeding 10% except where pedestrian and multi- use trails and their associated easements may occur.
 - iii. Wildlife habitat areas except where pedestrian and multi- use trails and their associated easements may occur.
 - iv. Stormwater management facilities may not contribute to the required Usable Open Space area unless designed in a way that the facility may serve as a fully accessible amenity.
 - v. Standing bodies of water unless improvements are incorporated, the design of which enable the facility to serve as a fully accessible amenity including dock structures, piers, boardwalks, and pedestrian furnishings.
 - vi. Flowing streams, rivers and designated "Waters of the State".

11. Dedication of Public Facilities

The City of Brownsville Municipal-Regional Planning Commission and the Brownsville Board of Mayor and Aldermen may, as a condition of approval and adoption and in accordance with the final development

plan, require that suitable areas for streets, public rights-of-way, schools, parks and other public areas be set aside, improved and/or dedicated for public use.

12. Bond Requirement for Improvements

The Planning Commission shall require that a performance bond be furnished and filed with the City of Brownsville for private and public improvements. An escrow agreement and account approved by the City Attorney as to form and content and by the Planning Commission shall be required in the amount of one hundred (100) percent of the estimated construction cost and engineering. These funds may be dispersed upon certification by the Building Inspector and by the City acting through the City Attorney. Said escrow shall accompany the request for final plan approval to ensure completion of all improvements including, but not limited to, public site improvements, streets, surface and subsurface drainage, water lines, sewer lines, parking areas, landscaping, planting, and screening, as recommended by the Development Staff.

13. Relation to Utilities, Public Facilities

PRD districts shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems and other utilities systems and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development in a form generally permitted in the area. Such districts shall be so located with respect to schools, parks, playgrounds and other public facilities required as having access in the same degree as would development in a form generally permitted in the area.

14. Site Planning

Site planning within any PRD shall provide for the protection of the development from potentially adverse surrounding influences and shall also provide for the protection of surrounding areas from potentially adverse influences within the development, including, but not limited to, area storm water management plans, hydrological studies, water and wastewater facilities, streets, noise and other environmental considerations.

All reports and plans shall be submitted to the City Planner for review and approval and shall be made a part of the final development plan.

15. Accessory Off-Street Parking and Loading

Accessory off-street parking and loading in the PRD shall be regulated by Chapter 7 of this Zoning Ordinance except as noted in the provisions set forth below and subject to review by the Planning Commission.

- a. One legal on-street parking space may be substituted for every required off-street parking space provided the on-street parking space is located on a public right-of-way adjacent to and abutting the subject parcel, building or use.
- b. Applicants wishing to use shared parking as a means of reducing the total number of required spaces must submit a shared parking analysis using the latest edition of Urban Land Institute's Shared Parking. The study must be provided in a form established by the Zoning Administrator and made available to the public. It shall address, at minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing parking spaces.
- c. A reduction of one parking space for every 5 bicycle parking spaces for a maximum reduction of 3 parking spaces.
 - i. Bicycle parking facilities shall be of a design as recommended by the Association of Pedestrian and Bicycle Professionals. (See APBP's Bicycle Parking Guidelines). Alternative high-quality bicycle parking facilities may be approved by the Zoning Administrator.

G. Specific Standards and Criteria for Planned Residential Developments

In addition to the general standards and general provisions set forth above, Planned Residential Developments shall comply with the requirements and standards that follow.

1. Permitted Uses

It is the intent of this Ordinance that any site or parcel of land to be developed as PRD shall not be less than three (3) acres and shall be under single ownership. Within the PRD District, the following uses are permitted subject to review by the Planning Commission and approval of the Board of Mayor and Aldermen.

- a. Any permitted use, accessory use, or conditional use allowed in the underlying residential district or districts.

2. Residential Densities

In PRD Developments there are no minimum lot sizes or yard requirements. However, lot dimensions and lot sizes must be shown on the Preliminary Development Plan that must be reviewed by the Planning Commission and approved by the Board of Mayor and Aldermen. Within any PRD classification, the Board of Mayor and Aldermen may authorize an increase in overall residential density within the project area. The base densities are as follows:

<u>Zone</u>	<u>Density</u>
R-1	2.90 units per acre
R-2	5.40 units per acre
R-3	7.30 units per acre

- a. An increase in density not to exceed sixteen (16) percent will be granted for the dedication of six (6) percent of the total PRD to the City of Brownsville. The site must be of such nature that excessive cut or fill is not required. The site must also be landscaped to the specifications of a landscape plan that must be submitted by the developer and approved by the Planning Commission. The City reserves the right to accept or decline any proposed land dedication. The minimum lot size for donation to the City of Brownsville shall be two (2) acres.

An increase in density not to exceed ten (10) percent may be granted for incorporating the following provisions into the development:

1. Providing additional recreational uses and facilities, or enhanced recreational design such as providing clubhouses, swimming pools, tennis courts, and other major facilities.
 2. Developing a system of pedestrian walkways for safe circulation to schools, churches, shopping and other traffic generators.
 3. Providing additional landscaping, where applicable on the public land with a minimum of six (6) shade trees per acre with a height of between eight (8) to ten (10) feet.
- b. An increase in density, not to exceed ten (10) percent may be granted for providing superior aesthetics within a development by:
1. Combining distinctiveness and excellence in architectural setting and design.
 2. Exceptional design of the automobile circulation system to include a minimum of paved surfaces.
 3. Providing enclosed or sub-surface parking where applicable.
 4. Providing a comprehensive fencing or screening system where common fencing or screening are required.
- c. The sequence and phased introduction of Common Open Space The provisions for increases in density granted under this section shall be demonstrated and occur in coordination with and consider the phased completion of associated private and public improvements. In no event shall certificates of occupancy be issued unless and until the associated provisions for increases in density granted under this section have been demonstrated in coordination with the completion of the associated private development.
- d. The Board of Mayor and Aldermen may prohibit or limit an increase in density to avoid the following conditions:

1. Inconvenient or unsafe access to the Planned Residential Development
2. Traffic congestion in the streets within or adjoining the Planned Residential Development.
3. An excessive burden on parks, recreation areas, schools, police and fire protection, and other public facilities which serve or are proposed to serve the Planned Residential Development.

The developer shall submit documentation, plans and drawings as necessary to justify density increases. The Board of Mayor and Aldermen may decrease or eliminate allowed density increases if it is determined that the developer is not performing as agreed upon.

3. Accessibility of Site

All proposed streets and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the Planned Residential Development, but may be designed so as to discourage outside through traffic from traversing the development. The location of the entrance points of the streets and driveways upon existing public roadways shall be subject to the approval of the Planning Commission.

4. Off-Street Parking

Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs, berms, and/or hedges and screening walls.

5. Pedestrian and Bicycle movement A planned development application shall clearly define and incorporate pedestrian and bicycle circulation as a design issue of equal importance to that of vehicular movement as made evident in the design of improvements.

- a. Access for pedestrians and bicyclists shall be arranged to provide safe, convenient routes and need not be limited to the vehicular access points. To the maximum extent feasible, plans for proposed developments shall separate movement of pedestrians from movement of vehicles and bicycles, and protect bicyclists from conflicts with vehicles.
- b. Where complete separation of movement of pedestrians from movement of vehicles and bicycles is not possible, plans shall minimize potential hazards by using special paving, grade separations, pavement parking, signs, striping, bollards, median refuge areas, traffic calming features, landscaping, lighting, or other means to clearly delineate pedestrian areas for both day and night use.
- c. Where pedestrians and bicyclists share walkways, the pedestrian/bicycle system shall be designed to be wide enough to

- accommodate anticipated pedestrian and bicycle traffic volumes. A shared walkway shall have a minimum width of 8-feet.
- d. Where a planned development is adjacent to or incorporates proposed or existing pedestrian and/or bicycle improvements and infrastructure, the proposed design of the planned development shall integrate any proposed pedestrian and bicycle improvements with the adjacent facilities and infrastructure.
6. Vehicular movement and standards - A planned development application shall include a defined hierarchical street system, which incorporates the following criteria:
- a. Streets, drives, parking and service areas must provide safe and convenient access to dwelling units and project facilities and for service and emergency vehicles.
 - b. Streets shall not be designed to create excessive barriers to pedestrian and bicycle circulation across the site or between uses nor shall streets be laid out in such a way that results in unnecessary fragmentation of the development into small tracts. In general, tract sizes shall be the maximum consistent with use, shape of the site and for the convenience and safety of the occupants.
 - c. Vehicular access to other streets from off-street parking and service areas shall be combined, limited, located, designed and controlled to channel traffic to and from such areas conveniently and safely.
 - d. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic.
7. Pattern Book or Design Guidelines Determined by the developer, the character and quality of design defined by a planned development shall be clearly communicated as a component of the application process. The application shall include a Pattern Book or Design Guideline document that clearly defines the design quality and character of improvements and construction. The Pattern Book or Design Guidelines must define how necessary control shall be exercised and enforced by the property owner, applicant, or the designee to ensure said definitions are implemented.
- a. The Pattern Book or Design Guidelines shall serve as an informative tool enabling the Planning Commission and Board of Mayor and Aldermen to determine whether the planned development, as a whole or in part, is appropriate.
 - b. The design of any planned development should reflect an effort by the developer to plan land uses within the planned development to blend harmoniously with adjacent land uses where existing uses reflect and conform with the recommended design and character as defined in existing adopted development regulations and documents.
 - c. Architecture and building materials shall be consistent within the design of the development and compatible with surrounding

- properties and/or adjacent neighborhoods.
- d. All aspects and components of design and improvements incorporated into a planned development shall be defined in the Pattern Book or Design Guidelines including (where applicable): building heights, building setbacks and bulk, building separation, scale and massing, general landscape standards, building lot types and dimensions, landscape buffers, screening, lighting design, public furnishings, and wayfinding.
8. Comprehensive Sign Policy A comprehensive sign policy, to be enforced by the property owner or his/her designee, shall be required for all planned developments outlining color, type, illumination, size and location of all development signage. A proposed sign policy for a planned development shall be included in the outline plan and approved by the Board of Mayor and Aldermen after a recommendation by the Planning Commission.
 - a. The developer shall submit a proposed comprehensive sign policy for all signage within the Planned Development to the Planning Commission as part of the planned development outline plan. The Planning Commission shall review the sign policy prior to approval of the planned development outline plan by the Board of Mayor and Aldermen. The City's role in reviewing signage shall be only as it relates to the City's adopted sign ordinances and existing adopted development regulations and documents.
 - b. Requirements. The requirements of the Comprehensive Sign Policy shall be as follows:
 - i. Signage shall be consistent in color, size, material, location, and design throughout each planned development.
 - ii. Signage within any planned development shall be consistent with the City's adopted sign ordinance and guidelines and shall be reviewed administratively.
 - c. Modification of standards for signage. The Planning Commission may make a recommendation to the Board of Mayor and Aldermen to waive any zoning ordinance provisions related to signage through a comprehensive sign policy. The Board of Mayor and Aldermen, through an approved planned development may waive any zoning ordinance provisions.
 9. Environmental Conservation A planned development shall provide environmental enhancements, such as Leadership in Energy & Environmental Design (LEED) certification from the U.S. Green Building Council to promote sustainable building design and construction including but not limited to, sustainable neighborhood development, sustainable site development, green roofs, water savings, energy efficiency, materials selection, and indoor environmental quality.

10. Privacy

The Planned Residential Development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the Planned Residential Development in response to objectionable views or uses and as a means to reduce objectionable noise through the use of fences, insulation, natural foliage, berms and landscaped barriers.

H. Procedures for Planned Residential Development Approval

The provisions of this Section govern the procedure for approval of all Planned Residential Developments provided herein.

1. Pre-Application Procedure

- a. At no less than one month prior to filing any application for a Planned Residential Development, the prospective applicant shall request a pre-application conference with the Planning Staff.
- b. To obtain information, each applicant shall confer with the City Planner in connection with the preparation of the Planned Residential Development application. The general outlines of the proposal, evidenced schematically by sketch plans, are to be considered before submission of the Planned Residential Development application. Thereafter, the City Planner shall furnish the applicant with comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to the preparation of the Planned Residential Development application.

2. Preliminary Development Plan

A preliminary development plan shall be submitted to the Planning Commission with the application for the Planned Residential Development. A final development plan, including all the requirements of a preliminary development plan, may be submitted as a single application when the proposed development plan shall contain all items required by this Ordinance and shall include those items which the Planning Commission shall specify in rules published from time to time, as well as the following:

a. Written Documents

- (1) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
- (2) A statement of planning objectives to be achieved by the PRD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
- (3) A development schedule indicating the approximate date when

construction of the PRD or stages of the PRD can be expected to begin and be completed.

If the Planned Residential Development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:

- (a) The approximate date when construction of the project can be expected to begin;
 - (b) The order in which the phases of the project will be built;
 - (c) A tabulation of improvements for each phase defined in detail, and the minimum area and the approximate location of common open space and public improvements that will be required at each stage.
- (4) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PRD, such as land areas, dwelling units, etc.
 - (5) Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures; approximate gross and net residential densities; total amount of open space (including a separate figure for usable open space).
 - (6) A traffic impact analysis may be required at the discretion of the Planning Director or the County Engineer except as required should a development application incorporate one or more of the following:
 - (a) Meet or exceed number of residential units.
 - (b) Meet or exceed number of gross sq. f.t of institutional space.
 - (7) A statement setting forth in detail either, (1) the exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed Planned Residential Development, or, (2) the bulk regulations under which the Planned Residential Development is proposed.
- b. Site Plan and Supporting Maps
 A site plan and any maps necessary to show the major details of the proposed PRD must contain the following minimum information:
- a. The existing site conditions including contours at two (2) foot intervals, water courses, flood plains, existing drainage patterns, soil conditions, unique natural features and forest cover.
 - b. Proposed lot lines and plot designs.
 - c. The location and floor area size of all existing and proposed buildings, structures and other improvements including maximum

heights, types of dwelling units, and density per type.

- d. The location and size in acres or square feet of all areas to be conveyed dedicated or reserved as common open spaces, public parks, recreational areas, school sites and similar public and semi-public uses.
- e. The existing and proposed circulation system of arterial, collector and local streets including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way (including major points of ingress and egress to the development). Notations of proposed ownership, public or private, should be included where appropriate.
- f. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict.
- g. The existing and proposed utility systems including sanitary sewers, storm sewers, water lines, and drainage. (Detailed drainage plan and calculations shall be handled at the final development plan stage.)
- h. A general landscape plan indicating the treatment of materials used for private and common open spaces.
- i. Enough information on land areas adjacent to the proposed PRD to indicate relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.
- j. The proposed treatment of the perimeter of the PRD, including materials and techniques used such as screens, fences and walls.
- k. Any additional information as required by the Planning Commission necessary to evaluate the character and impact of the proposed PRD.
- l. Drawing(s) depicting the conceptual layout to describe the intensity of development, the general character, scale and location of buildings and uses, relationship between improvements, relationship to surrounding sites and circulation. The drawing shall include and define:
 - The approximate location and nature of ingress and egress and access streets, where required.
 - The general location and maximum number of lots, parcels and/or sites to be occupied by buildings.
 - The location, maximum area, general layout, character, and circulation associated with vehicle parking, electric vehicle charging, loading and support services.

- The location, design, character and minimum and maximum area(s) dedicated to usable open space, other open spaces and common areas including the utilization and program of the open space or common area.
 - The location and maximum area(s) to be preserved, dedicated and/or conveyed for use as school sites, churches, and/or public buildings, if applicable.
 - The approximate location, design, character and intended ownership of all vehicular and pedestrian conveyance as well as associated rights-of-way, easements, and location of access agreements associated with improvements internal and adjacent to the site.
 - The location, site-specific design, design standards and character of landscape improvements, buffers and/or fencing.
 - The location, design standards, character and number of signs and signage.
 - A diagram describing circulation and movement of vehicles, bicycles, pedestrians, services and goods within the development and to/from existing thoroughfares.
 - The location, design and character of existing and proposed utilities including electrical service, telecommunication lines, potable water, sanitary sewer, stormwater conveyance and drainage.
- m. A Development Summary defining the following:
- The maximum total number of dwelling units, by dwelling unit type.
 - The maximum floor area(s) by building and/or use type, the exception being for single-family detached dwellings and their accessory uses.
 - The proposed maximum building or structure height(s), defining where maximum building or structure height(s) vary by use and/or location.
 - Parcel size(s), where applicable.
 - Gross and net residential unit densities.
 - Proposed lot coverage, except for single-family detached lots and their accessory structures.
 - A tabulation of the minimum area(s) dedicated to Usable Open Space, other open space and common areas, and amenities by location and program.

3. Preliminary Development Plan Approval Process and Effect of Approval

- a. At least sixty (60) days prior to the Planning Commission meeting at which it is to be considered, the owner of the property or his agent shall submit to the Planning Commission the Preliminary Development Plan, a completed application form, and all other information required under this Section. The Planning Commission shall review the application and shall recommend to the Board of Mayor and Aldermen to: approve; disapprove; or approve the Planned Residential Development subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next regular meeting.
- b. The Board of Mayor and Aldermen shall hold a public hearing on the application for the Planned Residential Development and the preliminary plan after receipt of recommendations from the Department of Development Services and any notice of appeal. The Board of Mayor and Aldermen shall establish a date for a public hearing and shall provide written notice and publication in accordance with Section 9.07 of this Ordinance. The Board of Mayor and Aldermen shall render a decision on any appeal and shall: approve; disapprove; or approve the proposed Planned Residential Development and preliminary development plan subject to conditions, and if approved, shall set forth the conditions imposed.
- c. The approved preliminary development plan shall bind the applicant, owner, and mortgagee, if any, and the City of Brownsville Board with respect to the contents of such plan.
- d. The preliminary development plan shall be used in lieu of a Master Subdivision Plan to comply with the provisions of the Subdivision Regulations pertaining to Master Plans.
- e. The Brownsville Planning Commission may amend or waive a development schedule upon submission of written justification by the applicant.

4. Final Development Plan Approval Process

- a. An application for approval of a final development plan of the entire Planned Residential Development, if it is to be completed in one phase, or of a portion of the Planned Residential Development, if it consists of more than one phase, shall be submitted by the applicant at least thirty (30) days prior to the Planning Commission meeting.
- b. The application for final development plan approval shall be filed with the Planning Commission and shall include, but not be limited to, the following:
 - (1) A plan suitable for recording with the Haywood County Register's Office.
 - (2) Proof referred to on the plan and satisfactory to the City Attorney as to the provision and maintenance of common open space.

- (3) All certificates, seals and signatures required for the dedication of land and recordation of documents.
 - (4) Tabulations of each separate use area, including land area, bulk regulations and number of dwelling units per gross acre and the gross floor area for commercial and industrial uses.
 - (5) Location and type of landscaping.
 - (6) Location and dimensions of utility and drainage facilities.
 - (7) All other requirements of a Final Plan under the Brownsville Subdivision Regulations.
- c. A decision shall be rendered on a final development plan by the Planning Commission. If a final plan is disapproved by the Planning Commission the applicant may file a final development plan that substantially conforms to the approved preliminary plan, or the applicant may file for an amendment to the approved preliminary development plan.
- d. After a final development plan is approved by the Planning Commission, the Building Inspector shall record such plan in the Haywood County Register's Office after receipt of any necessary bonds, fees and contracts to provide improvements required in the City of Brownsville Subdivision Regulations and the required signatures for recordation have been secured.
5. Zoning Administration - Permits
The Building Official may issue building permits for the area of the Planned Residential Development covered by the approved final development plan for work in conformity with the approved final development plan and with all other applicable ordinances and regulations. However, the Building Official shall not issue an occupancy permit for any building or structure shown on the final development plan of any stage of the Planned Residential Development unless the open space and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or Homeowners' Association or a responsible party. The Building Official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan if the completed building or structures conforms to the requirements of the approved final development plan and all other applicable regulations and ordinances.
6. Reapplication if Denied
If any application for a Planned Residential Development is denied by the legislative body, a reapplication pertaining to the same property and requesting the same Planned Residential Development may not be filed within twelve (12) months of the date final action was taken on the previous application unless such reapplication is initiated by the Planning Commission or authorized by the Board of Mayor and Aldermen.

7. Procedure for Amendment

A Planned Residential Development and the approved preliminary development plan may be amended in accordance with the procedure that governed its approval as set forth in this Section.

3.10 **MU-RC1 MIXED USE RESIDENTIAL COMMERCIAL DISTRICT**

A. Purpose and intent.

This district is designed to provide appropriate areas for quality mixed-use residential and commercial development that provides for a mixture of residential for living within Brownsville, and convenient commercial uses adequately equipped or planned for such. The provision of a limited variety of residential housing types and densities assures activity in the district, and enhances the housing choices of residents. The mix of uses meets the need for attached and detached residential dwellings. Infill development compatible with the existing character of surrounding existing development is encouraged. These districts shall be located on Major Arterial highways as designated on the Brownsville Major Road Plan.

B. Uses and structures

1. Principal permitted uses and structures

Residential limited to –

Single family detached

Condominiums

Townhouses

Multifamily – Apartments (only)

Other Housing limited to-

Hotels

General Merchandise limited to –

Department store

Variety store

Food, Drugs, Beverages limited to –

Retail bakery

Delicatessen

Drug or pharmaceutical store

Supermarket

Auto Dealers & Service Stations limited to –

Auto parts (new only)

Apparel & Accessories limited to –

Apparel & Accessories

Children's shop

Gift shop

Shoe store

Eating & Drinking Places limited to -

Dairy bars, ice cream parlor

Drive-in restaurants

Restaurants

Microbrewery

Fitness center

Florist

Sporting goods

Toy shops

General retail limited to –

Books and Periodicals

Hobby, toys, pets

Pet store

Sporting goods

Toys

Finance, Insurance, Real Estate limited to-

Banks

Insurance carriers

Real Estate Agencies

Institutional limited to-

Day care center (children only)

Park

Playground or playfield

Place of public assembly (including places of worship)

center) police or fire station, post office (excluding major processing

Public, parochial & private non-profit museum

Library or observatory

Schools, public or private, grades K-12

Lumber, Hardware, Building Materials limited to –

Hardware

Home improvement center

Personal Services limited to –

Barber shop

Beauty shop

Dry cleaning pick-up station

Pipe & tobacco shop

Professional Services limited to –

Accountants
 Architects, designers, and contractors
 Attorneys
 Dentists
 Engineers
 Office
 Optometrists
 Physicians
 Executive, management or administrative services

Public Utilities limited to-

Communications installations or exchanges
 Rights-of-way to all modes of transportation
 Small landscaped, scenically significant open areas or natural reserves, Water, storm drainage, sewer or gas distribution lines with incidental appurtenances

Recreation & Entertainment limited to -

Electronic amusement devices, arcade
 Health spa
 Motion picture theater

Repair Services limited to –

Radio, computer & TV repair
 Jewelry repair

2. Permitted accessory uses and structures

- a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.
- b. Accessory facilities and buildings customarily incidental to a permitted use.

3. Conditional Uses

Accessory structures limited to –

Accessory residential (in conjunction with a principal residential use)

Auto Dealers & Service Stations limited to –

Service stations

Public Utilities limited to-

Electric or gas substations
 Electric transmission lines or major fuel transmission lines

Electric, communication or telephone dist. lines, poles,
transformers or splice boxes
Wireless communication facilities

4. Prohibited uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the MU-RC1 Mixed Use Residential Commercial District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the MU-RC1 Mixed Use Residential District, the minimum required lot area shall be as follows:

Single-Family Detached	- 10,000 square feet
Condominiums	- 20,000 square feet plus 2,000 square feet for every dwelling unit in excess of four (4) units
Townhouses	- 3,000 square feet
Hotels	- 3 acres

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this shall not apply to those uses spelled out in 1.04 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 1.05 of this ordinance.

2. Basic Provisions

a. Front Yards

In all MU-RC1 Mixed Use Residential Commercial Districts, front yards abutting arterial street shall be forty (40) feet. For all other lots, front yards shall be a minimum of thirty (30) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards

The minimum side yard shall be ten (10) feet, except that no side yard is required for townhouse dwellings having adjoining walls.

c. Rear Yards

The minimum rear yard shall be twenty-five (25) feet.

E. Use of Required Yard Area

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways

3. Sidewalks

F. Access

All mixed-use residential commercial structures in the MU-RC1 Mixed Use Residential Commercial District shall be readily accessible from the rear, in order to provide for off-street loading or delivery.

G. Site Plan Review Process

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission / Design Review Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100'

b. Include the following:

- All existing and proposed roads, pedestrian ways (sidewalks) and drainage ways
- Curb cuts, drives and parking areas
- building lines enclosing the portion of the tract within which the buildings are to be erected
- all existing and proposed utility infrastructure
- required landscaping / vegetation plan
- the proposed use of the land and buildings
- building composition / building elevation illustrations
- the existing zoning
- tax map & parcel number reference
- owner of record

c. Show the building elevations for the front, rear and sides of all buildings are to be erected.

d. Include a vicinity map showing the relationship of the proposed development to Brownsville.

e. Show the relation of the proposed development to:

- the street system
- the surrounding use district
- surrounding properties

- f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission / Design Review Commission shall review the Site Plan within **sixty (60)** days. When conditions have been required of the applicant, such changes, as required by the Planning Commission / Design Review Commission, shall have been made.
 3. The Planning Commission/ Design Review Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission / Design Review Commission shall have the authority to give conditions approval to a Site Plan, subject to minor revisions being required by the Planning Commission, shall have been made.
 4. The certification required of the owner and trustee of the mortgage in 4.06 (F)(1) (H) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved site plan, he or she shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 5. The Building Inspector shall have the authority to authorized minor revisions to the approved Site Plan during the process of construction, if, in his/her opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chair of the Planning Commission / Design Review Commission.
- H. Enclosure requirements
All uses in the MU-RC1 Mixed Use Residential District shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses.

I. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within MU-RC1 Mixed Use Residential Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

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CHAPTER 4: PROVISIONS FOR COMMERCIAL DISTRICTS

4.01 STATEMENT OF PURPOSE

A. General Purposes of Commercial Districts

The commercial districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, and prosperity of other aspects of the general welfare. These general goals include, among others, the following:

- 1 To provide space for the many diverse types of commercial activity needed to serve the people, industry and Brownsville;
- 2 To promote the constructive improvements and orderly growth of the existing well located commercial centers;
- 3 To prevent indiscriminate mixtures of commercial activity within commercial areas;
- 4 To protect adjacent residential areas from offensive and detrimental influences;
- 5 To promote the most efficient and desirable land use.

4.02 NC - NEIGHBORHOOD COMMERCIAL DISTRICT

A. Purpose and Intent

These districts are designed to provide a limited variety of goods and services for the immediate residential neighborhood. It is not intended that these districts permit uses that generate large volumes of truck traffic. Adequate buffers and appropriate open spaces between commercial and residential areas are required to protect the integrity of residential neighborhoods.

B. Uses and Structures

1. Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

- Parks, playgrounds and playfields
- Community centers
- Post Offices (excluding major mail processing centers)
- Police and fire stations

PUBLIC UTILITIES - limited to -

- Communication, installations or exchanges
- Electric or gas substations
- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Private Streets
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves

FOOD, DRUG, BEVERAGE - except for -

- Supermarkets
- Package liquor stores
- Beverage Stores

BOOKS, STATIONARY - limited to -

- Magazines
- Newspapers
- Greeting Cards
- Stationery

PERSONAL SERVICES - limited to -

- Laundry dry-cleaning pick-up station
- Self-service laundry
- Beauty Shop
- Barber shop
- Pipe and tobacco shop
- Shoe repair
- Tailoring & dressmaking
- Apparel repair and alteration
- Fitness Studios
- Health Spas

Photography Studios
Nail Salons

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made)

2. Permitted Accessory Uses and Structures

(a) Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

(b) Accessory facilities and buildings customarily to a permitted use.

3. Conditional Uses

INSTITUTIONAL - limited to -

Day Care Centers

Group day care homes

Family day care homes

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Reservoirs and water tanks

Water production, treatment facility

FINANCE, INSURANCE, REAL ESTATE

All uses

UNDEVELOPED AND VACANT - limited to open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the Neighborhood Commercial District.

C. Bulk Regulations

1. Maximum Area for a NC Zone

No NC District shall exceed one and one-half (1 1/2) acres in size.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street line shall be twenty-five (25) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within NC Districts.

a. Front Yards

In all NC Districts, front yards shall be a minimum of forty (40) feet on lots that do not have facilities for parking within the required front yard. On lots that provide parking within the required front yard, the front yard shall be a minimum of sixty (60) feet. On double frontage and corner lots, there shall be a front yard on each side facing a street.

b. Side Yards ^{xiii}

For all lots within the NC District the minimum side yard shall be ten (10) feet.

c. Rear Yards ^{xiv}

For all lots within the NC District the minimum rear yard shall be twenty (20) feet.

E. Use of Required Yard Areas

The following uses may be made of yard areas in the NC Districts:

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-Street Parking

No driveway or parking area shall occupy more than half of any required yard.

3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Brownsville Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screens;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

-The existing zoning.

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Brownsville;

- e. Show the relation of the proposed development to:
 - The street system
 - The surrounding use district, and
 - Surrounding properties.
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any requirement improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
 3. The certification required of the owner and trustee of the mortgage in 4.05 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the Site Plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 4. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosed Requirements

All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses that by their nature must exist outside a building.

2. Outside Display

No outside display of merchandise shall be permitted beyond the front building line.

3. Exterior Storage

Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only and such facilities shall

be appropriately screened and maintained using the same materials from which the principal use is constructed.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within NC-Neighborhood Commercial Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

4.03 MPO - MEDICAL-PROFESSIONAL OFFICE DISTRICT

A. Purpose and Intent

These districts are designed to provide adequate space in appropriate locations suitable for accommodating medical, dental or similar personal services; and to provide for professional and business offices. In addition, certain commercial trade and service uses are permitted if necessary to serve the frequent and recurring needs of persons working in this district. Bulk limitations are designed to maximize compatibility with less intensive land use in adjacent residential districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

Place of worship

Health Clinic

Hospital

Nursing Home

Observation - rehabilitation center

Parks, playgrounds and playfields

Community centers

Rest homes and homes for the aged

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Non-profit private, public and utility administrative offices

Post Offices (excluding major mail processing centers)

Police and fire stations

PUBLIC UTILITIES - limited to -

Communications equipment, installations or exchanges

Electric or gas substations

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

FINANCE, INSURANCE, REAL ESTATE

All uses

PROFESSIONAL SERVICES - except for -
 Veterinarians
 Medical services generating biochemicals

BUSINESS OFFICES
 All Uses

BUSINESS SERVICES - limited to -
 Employment agencies
 Consulting services
 Detective and protective
 Clerical services

UNDEVELOPED AND VACANT - except for -
 Yard areas, greenbelt and open spaces, wildlife habitat refuge, hiking, nature
 and bike trails and related uses
 Erosion and sedimentation control measures, facilities and districts
 Flood proofing and flood hazard reduction structures
 Agriculture and forestry

2. Permitted Accessory Uses and Structures
 - a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.
 - b. Accessory facilities and buildings customarily to a permitted use.

3. Conditional Uses

INSTITUTIONAL - limited to -
 Day Care Centers
 Group day care homes
 Family day care homes
 Country club
 All golf courses
 Temporary non-profit festivals

PUBLIC UTILITIES - limited to -
 Reservoirs and water tanks
 Water production, treatment facility

FOOD, DRUG, BEVERAGE - except for -
 Bakery
 Candy, Confectionery
 Delicatessen
 Drugs and Pharmaceuticals

APPAREL AND ACCESSORIES - except for -
 Shoe stores
 Children's shop

ART - ANTIQUE - JEWELRY - except for -
 Antique store

BOOKS AND STATIONARY - except for -

Stationery

EATING AND DRINKING PLACES - limited to -
Restaurants, cafes, cafeterias, coffee shops

HOBBY - TOY - PET - limited to -
Camera shop

PERSONAL SERVICES - limited to -
Photographic Services
Beauty Shop
Pipe and tobacco shop
Barber shop
Shoe repair
Fitness Studios
Health Spas

BUSINESS SERVICES - limited to -
Duplicating, mailing, stenographic

EDUCATIONAL SERVICES - limited to -
Correspondence Schools
Other Special Training and Schooling

UNDEVELOPED AND VACANT - limited to -
Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

PROFESSIONAL SERVICES - limited to -
Small animal clinics as defined by this Ordinance.

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the MPO District.

5. Restriction on the Amount of Space Devoted to Conditional Uses

In order to maintain the office and professional character of the MPO districts, at least seventy-five (75) percent of the gross floor area of any structure on a lot in an MPO district shall be occupied by uses permitted by right (i.e. Principal Permitted Uses and Structures).

C. Bulk Regulations

1. Minimum Required Lot Area

With the MPO Districts, there is no minimum lot size.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street line shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 2.05 of this Ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots located within MPO Districts.

a. Front Yards

In all MPO Districts, front yards shall be a minimum of forty (40) feet. On double frontage lots and corner lots, there shall be a front yard on each street.

b. Side Yards ^{xv}

For all lots within the MPO Districts the minimum side yard shall be ten (10) feet.

c. Rear Yards ^{xvi}

For all lots within the MPO District the minimum rear yard shall be thirty (30) feet.

E. Use of Required Yard Areas

The following uses may be made of yard areas in the MPO Districts:

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-Street Parking

No driveway or parking area shall occupy more than half of any required yard.

3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screens;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

-The existing zoning.

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

- d. Include a vicinity map showing the relationship of the proposed development to Brownsville;
 - e. Show the relation of the proposed development to:
 - The street system
 - The surrounding use district, and
 - Surrounding properties.
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan and make a recommendation within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
 3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
 4. The certification required of the owner and trustee of the mortgage in 4.03 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan.

Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosed Requirements

All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses that by their nature must exist outside a building.

2. Exterior Storage

Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in rear yards only, and such facilities shall be appropriately screened and maintained using the same materials from which the principal use is constructed.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within the MPO-Medical-Professional Office Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

4.04 SCC - SHOPPING CENTER COMMERCIAL DISTRICT

A. Purpose and Intent

These districts are designed to provide for the development of shopping and commercial centers of integrated design of various sizes to serve the community.

In these coordinated commercial developments a variety of uses are permitted including commercial trade and service uses, entertainment facilities and offices. These districts are intended to be designed to accommodate safely a high volume of automotive traffic, so ease of automotive access is essential. Appropriate open space between commercial and residential areas is required.

B. Uses and Structures

1. Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Day care centers

Group day care homes

Family day care homes

Parks, playgrounds and playfields

Community centers

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Non-profit private, public and utility administrative offices

Post Offices (excluding major mail processing centers)

Police and fire stations

PUBLIC UTILITIES - limited to -

Communications equipment, installations or exchanges

Electric or gas substations

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Building materials heating and plumbing equipment

Lumber Yards

Electrical supplies

Lawn Mower sales and service Welding supplies

Greenhouse and nursery products

GENERAL MERCHANDISE

All uses

FOOD, DRUG, BEVERAGE

Except for fruit and vegetable stands

AUTO DEALER AND SERVICE STATIONS - limited to -

Auto parts (new)

APPAREL AND ACCESSORIES

All uses

FURNITURE, HOME FURNISHING, APPLIANCES

All uses

EATING AND DRINKING PLACES - except for -

Nightclubs

Taverns, bars

ART, ANTIQUE, JEWELRY

All uses

BOOKS, STATIONERY

All uses

HOBBY, TOY, PET

All uses

MISCELLANEOUS RETAIL

Except for salvage clothing

FINANCE, INSURANCE, REAL ESTATE

All uses

PERSONAL SERVICES - except for -

Funeral services

PROFESSIONAL SERVICES - except for -

Veterinarians

Medical Clinic - outpatient

BUSINESS OFFICES

All Uses

RECREATION AND ENTERTAINMENT - limited to -

Motion picture Theater

Roller skating

Bowling

Health Spa

BUSINESS SERVICES - limited to -

Duplicating, mailing and stenographic

Employment agencies

Consulting services

Detective and protective

Trading stamps

Clerical services

Custom painting, excluding the printing of books other than pamphlets and small reports

Window cleaning

REPAIR SERVICES - except for -

Auto body repair and paint shops

Armature rewinding

Welding Shops

Reupholstery

Tire recapping or retreading

Auto repair, garages

EDUCATIONAL SERVICES

All uses

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

2. Permitted Accessory Uses and Structures

a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

b. Accessory facilities and buildings customarily incidental to a permitted use.

3. Conditional Uses

INSTITUTIONAL - limited to -

Temporary non-profit festivals

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals

Reservoirs and water tanks

Water production, treatment facility

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Greenhouse and nursery products
 Heating and plumbing supplies
 Electrical supplies
 Welding supplies
 Lawn Mower sales and service

AUTO DEALERS AND SERVICE STATIONS - limited to -

Motorcycle sales
 Tire sales and servicing
 Service stations

RECREATION AND ENTERTAINMENT - limited to -

Electronic amusement devices
 Arcade
 Billiard parlors

BUSINESS SERVICES -

Equipment rental and leasing

REPAIR SERVICES - limited to

Auto repair and garage

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises
 Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the SCC District.

C. Bulk Regulations

1. Minimum Required Lot Area

With the SCC Districts, there is a minimum lot size of six (6) acres.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street line shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstructions in required yards, obstructions prohibited at street intersections, exceptions to these provisions, and other regulations are contained in Section 1.05 of this Ordinance.

2. Basic Provisions

Within the SCC Districts, the placement of buildings and parking areas shall be designed to protect residential areas; ornamental screening from noise and light shall be provided where necessary. However, in no case shall the design of the shopping center provide less than the following standards.

a. Front Yards

All buildings shall be set back from all street right-of-way lines not less than fifty (50) feet.

b. Side Yards ^{xvii}

The minimum side yard requirements shall be fifteen (15) feet.

c. Rear Yards

There shall be a rear yard, alley, service court or combination thereof, of not less than thirty (30) feet in depth; and all of the service areas of all buildings shall be completely screened from public view with permanent screening materials subject to approval by the Planning Commission.

E. Use of Required Yard Areas

The following uses may be made of yard areas in the SCC Districts:

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-Street Parking

3. Sidewalks

F. Site Plan Review

1. Preliminary Plan

The owner or lessee of any tract of land zoned SCC who desires to develop said tract shall submit to the Brownsville Planning Commission a Preliminary Plan for the use and development of the entire tract.

The Preliminary Plan shall:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-Curb cuts, drives and parking areas;

-Boundaries and tracts;

-The proposed use of the land and buildings;

-Landscaping, planting screens wall and fences;

- c. Exhibit a vicinity map showing the relation of the proposed development to Brownsville;
- d. Show the relation of the proposed development to:
 - The street system;
 - Traffic flow;
 - The surrounding property and use district;
 - Available community services (water, sewer, etc.);
 - General drainage patterns;
 - Contours at vertical intervals of not more than five (5) feet.
- e. Contain a certification by a licensed surveyor, architect, contractor or civil engineer that said boundaries have been surveyed and are true and correct;
- f. Provide a form for certificate of approval:
 - The Board of Mayor and Aldermen;
 - The Secretary of the Planning Commission;

The owner or lessee shall incorporate into his Preliminary Plan any changes and/or additional requirements imposed by the Planning Commission. When the Preliminary Plan is drawn to their satisfaction, the Planning Commission shall approve the Plan and the Secretary of the Commission shall sign on the form provided.

The Planning Commission shall review the Preliminary Plan and may hold a public hearing on the Plan if a majority of the Commission deems such action desirable. The owner or lessee shall incorporate into his Preliminary Plan any changes and/or additional requirements imposed by the Planning Commission and approval by the Commission shall constitute acceptance of the Plan as the overall development scheme for said tract.

2. Final Plan

Following the approval of the Preliminary Plan by the Planning Commission a Final Plan in conformity with the approved Preliminary Plan which shows all or that portion of the tract the applicant proposes to develop initially shall be submitted to the Planning Commission.

The Final Plan Shall:

- a. Be drawn to a scale of 1" = 100'.
- b. Include the following:
 - (1) The location and exterior dimensions of all proposed buildings;
 - (2) The location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
 - (3) The location, arrangement and dimensions of truck loading berths;
 - (4) The location and dimensions of vehicular entrance, exists, roads and drives;

- (5) The location and dimensions of pedestrian entrances, exists, walks and walkways;
 - (6) The location and materials of walls, fences, screens and landscaping; and,
 - (7) The location, size, height and orientation of all signs.
- c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Bear a form for certificate of approval by: The Secretary of the Planning Commission
 - e. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.

The Planning Commission shall review the Final Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.

The Planning Commission shall approve the Final Plan as submitted or reject the Final Plan as submitted. The reasons for rejection of the Final Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Final Plan, subject to minor revisions being required of the applicant.

The certification required of the owner and trustee of the mortgage in 404 (F) (2) (e) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Final Plan. Upon such certification by the owner, the approved Final plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved site plan, he shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Final Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

The Building Inspector shall have the authority to authorize minor revisions to the approved Final Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Final Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Landscaping

Any part of the project area not used for buildings or other structures, parking loading and access way shall be devoted to landscaping, as defined in Section 2.02.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within SCC-Shopping Center Commercial Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

4.05 **CB - CENTRAL BUSINESS DISTRICT**

A. Purpose and Intent

This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a central business district. High intensity of use is permitted in this district, and increased building bulk is provided as a means of encouraging such development. This district is intended to be designed in a manner conducive to and safe for a high volume of pedestrian traffic.

B. Uses and Structures

1. Principal Permitted Uses and Structures

RESIDENTIAL – All Uses Except Mobile Home Park^{xviii}

INSTITUTIONAL - limited to -

Place of worship

Lodge, club

Parks, playgrounds and playfields

Community centers

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Non-profit private, public and utility administrative offices

Post Offices (excluding major mail processing centers)

Police and fire stations

PUBLIC UTILITIES - limited to -

Communications equipment, installations or exchanges

Electric or gas substations

Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

Private Streets

Rights-of-way to all modes of transportation

Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Building materials

Heating and plumbing equipment

Paint, glass and wallpaper

Hardware

Electrical supplies

Welding supplies

Lawnmower sales

GENERAL MERCHANDISE

All uses

FOOD, DRUG, BEVERAGE

All uses

AUTO DEALER AND SERVICE STATIONS - limited to -

Auto parts (new)

APPAREL AND ACCESSORIES

All uses

FURNITURE, HOME FURNISHING, APPLIANCES

All uses

EATING AND DRINKING PLACES - except for -

Taverns, bars, Nightclubs

ART, ANTIQUE, JEWELRY

All uses

BOOKS, STATIONERY

All uses

HOBBY, TOY, PET

All uses

MISCELLANEOUS RETAIL

All uses

FINANCE, INSURANCE, REAL ESTATE

All uses

PERSONAL SERVICES - except for -

Funeral services

PROFESSIONAL SERVICES - except for -

Veterinarians

Medical Clinic - outpatient

BUSINESS OFFICES

All Uses

RECREATION AND ENTERTAINMENT - limited to -

Motion picture Theater

Roller skating

Bowling

Health Spa

BUSINESS SERVICES - limited to -

Duplicating, mailing and stenographic

Employment agencies

Consulting services

Detective and protective

Trading stamps

Equipment rental and leasing
 Clerical services
 Custom painting, excluding the printing of books other than pamphlets and small reports
 Window cleaning

REPAIR SERVICES - except for -
 Auto repair, garages
 Electrical repair, small APPLIANCES
 Watch, clock and jewelry repair
 Furniture and large household appliance repair

EDUCATIONAL SERVICES
 All uses

UNDEVELOPED AND VACANT - except for -
 Circuses, carnivals and similar transient enterprises
 Open water including ponds, lakes and reservoirs, streams and water ways (all man-made)

2. Permitted Accessory Uses and Structures
 - (a) Accessory off-street parking and loading facilities
 - (b) Accessory facilities and buildings customarily incidental to a permitted use

3. Conditional Uses
 INSTITUTIONAL - limited to -
 Temporary non-profit festivals
 PUBLIC UTILITIES - limited to -
 Railroad, bus, and transit terminals
 Reservoirs and water tanks
 Water production, treatment facility

LUMBER, HARDWARE, BUILDING MATERIALS - except for -
 Greenhouse and nursery products

AUTO DEALERS AND SERVICE STATIONS - limited to -
 Service stations
 Used car sales
 Auto dealerships

PERSONAL SERVICES - limited to
 Funeral Services

RECREATION AND ENTERTAINMENT - limited to -
 Electronic amusement devices, arcade
 Billiard parlors

BUSINESS SERVICES -
 Disinfecting and exterminating

REPAIR SERVICES - limited to
 Reupholstery

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (all man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the Central Business District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the CB District, there is no minimum lot size.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limitations.

D. Yard Requirements

Within the CB District, no yards, as such, are required. However, if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed from the ground to the sky.

E. Use of Open Space

The following uses may be made of any open space in the CB District:

1. Landscaping

All open areas not occupied by driveways, sidewalks, and parking or loading areas, shall be devoted to landscaping as defined in Section 2.02.

2. Driveways

3. Off-Street Parking

4. Sidewalks

F. Access

All buildings in the CB District shall be readily accessible from the rear in order to provide for off-street loading or delivery, where feasible.

G. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

- The existing zoning.
 - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville.
 - e. Show the relation of the proposed development to:
 - The street system;
 - The surrounding use district, and
 - Surrounding properties
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
 3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
 4. The certification required of the owner and trustee of the mortgage in 4.05 (G) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

H. Other Requirement

1. Exterior Storage

Exterior storage of goods and materials of any kind is prohibited.

The placement of waste disposal facilities shall be in the rear of buildings only.

2. Enclosure Requirements

All uses shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses that by their nature must exist outside a building.

3. Outside Display

No outside display of merchandise shall be permitted.

I. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within the CB-Central Business District, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

4.06 GC - GENERAL COMMERCIAL DISTRICT

A. Intent and Purpose

These districts are designed to provide adequate space in appropriate locations for the establishment of a wide variety of uses including commercial trade and service uses, entertainment facilities, offices and establishments engaged in wholesale trade. Since these activities tend to generate relatively large volumes of traffic and have other characteristics detrimental to residential districts, their locations should be removed from the proximity of residential district as such as possible.

B. Uses and Structures

1. Principal Permitted Uses and Structures

OTHER HOUSING – limited to –

hotels and motels

INSTITUTIONAL - limited to -

Place of worship

School, public or private, grades K-12

Day care center

Group day care home

Family day care home

Nursing home

Park, playground, playfield

Community centers

Public, parochial and private non-profit museums, art galleries, libraries and observatories

Medical Clinics

Non-profit private, public and utility administrative offices

Post Offices (excluding major mail processing centers)

Police and fire stations

PUBLIC UTILITIES - limited to -

- Communications installations or exchanges

- Electric or gas substations

- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)

- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)

- Private Streets

- Rights-of-way to all modes of transportation

- Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

- Lumber yards

- Greenhouse and nursery products

GENERAL MERCHANDISE

- All uses

FOOD, DRUG, BEVERAGE

- All uses

AUTO DEALER AND SERVICE STATIONS - limited to -

- Service Stations

- Auto parts (new)

- Auto dealership

- Car wash

- Electric vehicle charging stations

- Motorcycle Sales

- Tire sales and servicing

APPAREL AND ACCESSORIES

- All uses

FURNITURE, HOME FURNISHING, APPLIANCES

- All uses

EATING AND DRINKING PLACES (including microbreweries)- except for -

- Taverns, bars,

- Nightclubs

ART, ANTIQUE, JEWELRY

- All uses

HOBBY, TOY, PET

- All uses

MISCELLANEOUS RETAIL

- Salvage Clothing

FINANCE, INSURANCE, REAL ESTATE

- All uses

PERSONAL SERVICES

All uses

PROFESSIONAL SERVICES

All uses

BUSINESS OFFICES

All Uses

RECREATION AND ENTERTAINMENT - limited to -

Motion picture Theater

Roller skating

Bowling

Electronic amusement devices, arcades

Billiard parlor

Health Spa

Miniature golf

BUSINESS SERVICES - except for -

Photofinishing

Metal and wood fencing, ornamental grillwork

Central laundry, dyeing and dry-cleaning works

Truck terminals

Research services (private)

REPAIR SERVICES - except for -

Armature rewinding

Welding shop

Tire recapping or retreading

EDUCATIONAL SERVICES

All uses

CONTRACT CONSTRUCTION SERVICES

All uses

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

WAREHOUSE FACILITIES- Limited to-

Self-service storage facilities

2. Permitted Accessory Uses and Structures

a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

b. Accessory facilities and buildings customarily incidental to a permitted use

3. Conditional Uses

INSTITUTIONAL - limited to -

Cemetery - mausoleum

Country Club

Airports, air cargo terminals, heliports and any other aeronautical device
 Major mail processing centers
 Military installations
 Colleges, junior colleges and universities, but excluding business schools
 operated as profit-making enterprises
 All golf courses
 Stadiums, sports arenas, auditoriums and bandstands
 Zoological gardens
 Temporary nonprofit festivals

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals
 Public and private utility corporations and truck yards
 Radio and television transmission stations
 Railroad yards and other transportation equipment marshaling and storage
 areas
 Reservoirs and water tanks
 Electric transmission lines and major fuel transmission lines
 Gas, electric production and treatment facilities
 Water production, treatment facility

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Greenhouse and nursery products

AUTO DEALERS AND SERVICE STATIONS - limited to -

Used car sales
 Auto parts (used)
 Boat, marine sales
 Truck, heavy equipment sales
 Auto and truck rental
 Mobile Home Sales; prefabricated homes

EATING AND DRINKING PLACES - limited to -

Taverns, bars
 Nightclubs

RECREATION AND ENTERTAINMENT - limited to -

Drive-in movie
 Amusement park
 Fairground
 Golf driving range
 Indoor shooting range

BUSINESS SERVICES - limited to -

Photofinishing
 Research services (private)
 Metal and wood fencing, ornamental grill work

WHOLESALE TRADE - limited to -

Drugs, chemicals and allied products

Groceries and related products
 Electrical goods
 Hardware, plumbing and cooking equipment and supplies
 Metal and minerals

COMMUNICATIONS – limited to satellite dishes provided the following conditions are met in addition

- 1) Vegetative screening is provided;
- 2) The location for satellite dish is not seen from a public street

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises
 Open water including ponds, lakes and reservoirs, streams and waterways (man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the GC District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the GC District, the minimum required lot area shall be 15,000 square feet.

2. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this shall not apply to those uses spelled out in 1.04 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 1.05 of this ordinance.

2. Basic Provisions

a. Front Yards

In all GC Districts, front yards abutting an arterial street shall be fifty (50) feet. For all other lots, front yards shall be a minimum of forty (40) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards^{xix}

The minimum side yard shall be ten (10) feet.

c. Rear Yards^{xx}

The minimum rear yard shall be thirty (30) feet.

E. Use of Required Yard Area

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways and Accessory Off-street Parking

3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:
 - a. Be drawn on a scale of 1" = 100';
 - b. Include the following:
 - all existing and proposed roads and drainage ways;
 - curb cuts, drives and parking areas;
 - building lines enclosing the portion of the tract within which the buildings are to be erected;
 - the proposed use of the land and buildings; and,
 - the existing zoning.
 - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville.
 - e. Show the relation of the proposed development to:
 - the street system;
 - the surrounding use district, and
 - surrounding properties
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.

4. The certification required of the owner and trustee of the mortgage in 4.06 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Fencing and Automobile Limit Requirements for Auto Repair & Wrecker Service Operations

Auto repair and wrecker service operation establishments shall be required to have a screened fence for screening purposes, which shall contain a minimum of eight (8) feet in height in order to block the view of stored vehicles from the public. Screening shall be provided by solid plank wood or chain link with screen. Additionally, auto repair and wrecker service operations shall be required to contain all vehicles in need of repair within the fenced area of the subject property.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within GC-General Commercial Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

4.07 MU MIXED USE DISTRICT

A. Purpose and intent.

This district is designed to provide appropriate areas for quality mixed-use development that will link uses for living, working, shopping, educating and recreating within the limits of Downtown Brownsville or other areas adequately equipped or planned for such. The facilitation of mixed-use development reduces vehicle trips, improves pedestrian mobility, relieves traffic congestion and improves the overall quality of life in the City of Brownsville. The provision of a variety of residential housing types and densities assures activity in the district, supports a mix of uses and enhances the housing choices of residents. The integration of mixed-use development with its surroundings encourages connections for pedestrians and vehicles and assures the sensitive, compatible use, scale and operational transitions of neighboring uses. The Mixed-Use (MU) District

is intended to accommodate neighborhood uses that will serve the surrounding residents and neighborhoods with convenience retail and services. The MU District is intended to accommodate some automotive-oriented uses, but an emphasis shall be placed on the pedestrian and walkability. The mix of uses meets the need for professional and business services, personal services, specialty shops, restaurants, public and semipublic uses, and attached and detached residential dwellings. Infill development compatible with the existing character of downtown is encouraged.

B. Uses and structures

6. Principal permitted uses and structures

Residential - limited to –

Single family detached
two- family
multi-family
townhouses

Institutional- limited to-

day care center (children only)
lodge
club
park
playground or playfield
place of public assembly (including places of worship)
police or fire station, post office (excluding major processing center)
public, parochial & private non-profit museum
art gallery
library or observatory
schools, public or private, grades K-12

Public Utilities- limited to-

Communications installations or exchanges
Rights-of-way to all modes of transportation
Small landscaped, scenically significant open areas or natural reserves, Water, storm drainage, sewer or gas distribution lines with incidental appurtenances

Lumber, Hardware, & Building materials – limited to –

paint, glass, and wallpaper

General Merchandise – limited to –

Department store
variety store

Foods Drugs and Beverages – limited to -

retail bakery
candy
confectionary
delicatessen

- drugs or pharmaceuticals
- fruit or vegetable store
- Apparel & Accessories - limited to –
 - apparel & accessories store
 - children’s shop
 - shoe store
- Eating and Drinking Places limited to –
 - coffee shops
 - ice cream parlors
 - microbreweries
 - restaurants
- Arts, Antiques, and Jewelry limited to –
 - antique store
 - art gallery or studio
 - arts & craft store
 - flower shop
 - florist
 - gift shop
 - glasses & china
 - jewelry & watches
 - optical goods
- General Retail limited to –
 - books & periodicals
 - greeting card & stationary
 - hobby
 - toys
 - pets
 - aquariums
 - birds and pet stores
 - camera shop
 - hobby shop
 - sporting goods
 - bicycles
 - toys
- Finance, Insurance, and Real Estate limited to –
 - banks
 - insurance carrier
 - real estate agent
 - savings and loan
 - other insurance and real estate services
- Personal services limited to –
 - barber shop
 - beauty shop
 - photography retail store
 - pipe & tobacco shop
 - shoe repair

- tailoring or dressmaking
- Professional Services limited to –
 - Accountants
 - Architects
 - Designers
 - Contractors
 - Attorneys
 - Dentists
 - Engineers
 - Hospital services or supplies
 - Office
 - Optometrists
 - Physicians
 - Planners
 - Executive, management, or administrative services
- Recreation & Entertainment limited to –
 - Health spa
- Business Services limited to –
 - Advertising services
 - Clerical services
 - Consulting service
 - Data processing
 - Detective or protective
 - Duplicating, mailing, or stenographic, employment agencies
 - Window cleaning
- Repair Services limited to –
 - Radio Computer and TV repair
- Educational Services limited to –
 - Art and music school
 - Barber and beauty school
 - Business & steno school
 - Other special training and schooling
- Miscellaneous Services limited to –
 - Essential Services
- Undeveloped and Vacant limited to –
 - Agriculture and forestry
 - Erosion & sedimentation control measures facilities and districts
 - Flood proofing & flood hazard reduction structures
 - Yard areas
 - Green belt
 - Open spaces
 - Wildlife habitat refuge
 - Hiking, nature, & bike trails
 - Open water including ponds, lakes, reservoirs, streams & water ways (all manmade)

2. Permitted accessory uses and structures
 - a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.
 - b. Accessory facilities and buildings customarily incidental to a permitted use.
3. Conditional Uses

Accessory structures limited to –

 - Accessory residential (in conjunction with a principal residential use)
 - Accessory residential (above a non-residential use)
 - Adult care center
 - College
 - Junior college or university (excluding businesses operating as profit-making enterprises)

Residential limited to-

 - Bed and breakfast homestays

Public Utilities limited to-

 - Electric or gas substations
 - Electric transmission lines or major fuel transmission lines
 - Electric, communication or telephone dist. lines, poles, transformers or splice boxes
 - Wireless communication facilities

Food, Drugs & Beverages limited to –

 - Farmers market
 - Convenience stores
 - Service stations
4. Prohibited uses

Any use not allowed by right, by accessory or by conditional use is prohibited in the MU Mixed Use District.
- C. Bulk Regulations
 4. Minimum Required Lot Area

Within the MU Mixed Use District, the minimum required lot area shall be as follows:

 - Residential – 3,000 square feet
 - Commercial - None.
 5. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this shall not apply to those uses spelled out in 1.04 (D), Exception on Height Limitations.

D. Yard Requirements

1. General Provisions

General provisions applicable to all commercial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 1.05 of this ordinance.

2. Basic Provisions

a. Front Yards

In all MU Mixed Use Districts, front yards abutting arterial street shall be forty (40) feet. For all other lots, front yards shall be a minimum of thirty (30) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards

The minimum side yard shall be ten (10) feet.

c. Rear Yards

The minimum rear yard shall be thirty (30) feet.

E. Use of Required Yard Area

1. Landscaping

The first ten (10) feet of any required yard adjacent to a street shall be devoted to landscaping (as defined in Section 2.02). All other required yard areas not occupied by sidewalks and driveways shall also be devoted to landscaping.

2. Driveways

6. Sidewalks

F. Access

All mixed- use buildings in the MU Mixed Use District shall be readily accessible from the rear, in order to provide for off-street loading or delivery.

G. Site Plan Review Process

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission / Design Review Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100'

b. Include the following:

- All existing and proposed roads, pedestrian ways (sidewalks) and drainage ways
- Curb cuts, drives and parking areas

- building lines enclosing the portion of the tract within which the buildings are to be erected
 - all existing and proposed utility infrastructure
 - required landscaping / vegetation plan
 - the proposed use of the land and buildings
 - building composition / building elevation illustrations
 - the existing zoning
 - tax map & parcel number reference
 - owner of record
- c. Show the building elevations for the front, rear and sides of all buildings are to be erected.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville.
 - e. Show the relation of the proposed development to:
 - the street system
 - the surrounding use district
 - surrounding properties
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
7. The Planning Commission / Design Review Commission shall review the Site Plan within sixty (60) days. When conditions have been required of the applicant, such changes, as required by the Planning Commission / Design Review Commission, shall have been made.
 8. The Planning Commission/ Design Review Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission / Design Review Commission shall have the authority to give conditions approval to a Site Plan, subject to minor revisions being required by the Planning Commission, shall have been made.
 9. The certification required of the owner and trustee of the mortgage in 4.06 (F)(1) (H) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the

approved site plan, he or she shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.

10. The Building Inspector shall have the authority to authorized minor revisions to the approved Site Plan during the process of construction, if, in his/her opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chair of the Planning Commission / Design Review Commission.

H. Enclosure requirements

All uses in the MU Mixed Use District shall be conducted within completely enclosed buildings except for parking, loading and other accessory uses.

I. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within MU Mixed Use Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

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CHAPTER 5: PROVISIONS FOR INDUSTRIAL DISTRICTS

5.01 STATEMENT OF PURPOSE

A. General Purposes of Industrial Districts

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

1. To provide sufficient space in appropriate locations to meet the needs for industrial expansion within Brownsville;
2. To encourage industrial development that is free from hazards to the public health and which is environmentally safe and non-polluting;
3. To protect industrial activities against congestion, encroachment from incompatible land uses and other adverse characteristics; and
4. To protect adjacent residential and commercial areas from offensive influences; and
5. To promote the most efficient and desirable land use.

5.02 RI - RESTRICTIVE INDUSTRIAL DISTRICT

A. Purpose and Intent

These districts are designed to provide space for a wide range of industrial and related uses that conform to a high level of performance standards and have the least objectionable characteristics. It is required that all operations of such establishments be carried on within completely enclosed buildings, thus preventing any adverse characteristics from affecting neighboring properties. These districts may provide a buffer between other districts and other industrial activities that have more objectionable influences. Residential uses are excluded from these districts.

B. Uses and Structures

(1) Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

- Parks, playgrounds and playfields
- Community centers
- Post Offices (excluding major mail processing centers)
- Police and fire stations

PUBLIC UTILITIES - limited to -

- Communication, installations or exchanges
- Electric or gas substations
- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Private Streets
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

- Lumber yards
- Building materials
- Heating and plumbing equipment
- Electrical supplies
- Welding supplies

BUSINESS SERVICES - limited to -

- Warehousing and storage
- Photofinishing
- Research services (private)
- Metal and wood fencing, ornamental grill work
- Disinfecting and exterminating
- Central laundry, dyeing and drying cleaning work
- Freight forwarding office
- Truck terminal
- Equipment rental and leasing

REPAIR SERVICES - except for -

Auto body repair and paint shops
 Armature rewinding
 Welding shop
 Reupholstery
 Tire recapping or retreading

CONTRACT CONSTRUCTION SERVICES

All uses

WHOLESALE TRADE - all - except for -

Manufacture, assembly, processing, storage, distribution of chemicals drugs, soap, fertilizers and abrasive products
 Scrape metal processors
 Stone, clay, glass, and related mineral products; mortar, plaster paving materials.
 Lumber and wood products
 UNDEVELOPED AND VACANT - except for -
 Circuses, carnivals and similar transient enterprises
 Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

2. Permitted Accessory Uses and Structures
 - a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.
 - b. Accessory facilities and buildings customarily incidental to a permitted use.

3. Conditional Uses

INSTITUTIONAL - limited to -

Cemetery - mausoleum
 Country Club
 Airports, air cargo terminals, heliports and any other aeronautical device
 Major mail-processing centers
 Military installations
 Colleges, junior colleges and universities, but excluding business schools operated as profit-making enterprises
 All golf courses
 Stadiums, sports arenas, auditoriums and bandstands
 Zoological gardens
 Temporary nonprofit festivals
 Places of Worship

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals
 Public and private utility corporations and truck yards
 Radio and television transmission stations
 Railroad yards and other transportation equipment marshalling and storage areas
 Reservoirs and water tanks
 Sewage disposal treatment plants

Electric transmission lines and major fuel transmission lines
 Water production, treatment facility

Utilities limited to and provided that any uses allowed under this section shall be as follows:

1. Electric utilities (481); Shall include all power plants, accessory structures and functions. Exemptions: Any facility or easement solely owned, operated, managed, and maintained by any public or private utility or federal energy authority that provides services to the public and not subject to any state restrictions or requirements for operation or decommissioning.
 - a. All Power Plants (Electric Generation Plants-4812) shall meet all provisions for a “use permitted on appeal” of 5.02(a-o); All power plants generating 1MW of power or more (consistent with TCA 66-9-207 and requiring decommissioning) shall obtain and submit an environmental assessment consistent with all rules, regulations, NEPA boundaries, public participation and requirements as utilized by TVA for environmental assessments. Any 3rd party environmental assessment may be utilized provided the minimum requirements stated above are met. Exemption: solely owned and or operated public or private utilities or federal energy authority. Power Plants shall include:
 - (i) Geothermal, Hydroelectric, Peaker and Backup Power Plants: Includes all associated structures owned or leased, operated and maintained by a non-public utility, entity or person.
 1. Shall meet all state, federal and other governing authority requirements
 - (ii) Nuclear Power Plant: Includes all associated structures owned or leased, operated and maintained by a single entity or person.
 1. Shall meet all state, federal and other governing authority requirements
 - (iii) Private Power Plant-Wind: Includes wind turbines and support structures, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and other accessories owned or leased, operated and maintained by a non-public utility, entity or person.

(A) General provisions for Power Plants-Wind

1. Maximum height of any part of wind plants or accessory, or associated supporting structures shall not exceed 250' at maximum height. Exemption: utility poles or structures are exempt from height requirements.
 2. All minimum setback requirements in 5.02 shall be measured from all required fenced facility areas and shall be strictly enforced.
 3. Distance required from location of a wind turbine to the fenced protected area shall be at least 10' beyond the height from the center of the mounted structure.
 4. Shall meet all requirements of current state adopted National Electric Code, including but not limited to disconnect requirements.
 5. All buried wiring and conduit shall be a minimum of 36" deep.
 6. Shall meet all state, federal and other governing authority requirements, provisions and certifications.
 7. 5.02 et al shall apply to wind plants.
 8. 5.02 et al shall apply to wind plants.
- (iv) Power Plant-Solar: (Includes "solar" as defined in Chapter 1) Includes collection panels and support structures, inverters, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and all other accessories, buildings and structures defined by state law and owned, operated and maintained by a non-public utility, entity or person.

State Law Definitions: Solar power facility is defined in TCA 66-9-207; Solar energy system is defined in TCA 66-9-203; both terms shall be synonymous with

“solar” and applied as a “utility” use for the purpose of this Resolution and as specified in the Standard land use code manual (48). “Solar” shall be deemed an Electric Generation Plant as stated in the Standard Land Use Code Manual (4812).

Power Plant- Solar shall in no way be construed a utility, commercial enterprise or facility if power produced has less than a 100KW nameplate rating, is utilized for personal use, to off-set a power costs to a single-family dwelling, to power household devices, rooftop power production or other non-commercial uses. Solar may be utilized for agriculture up to the power output needed to run an agriculture operation on the parcel of which the agriculture operation is located.

(A) General provisions for Power Plants-Solar

1. Maximum height of any part of an array, accessory, or associated supporting structure shall not exceed 15'-0" at maximum vertical tilt or free-standing height. Exemption: utility poles or structures are exempt from height requirements.
2. All minimum setback requirements in 5.02 shall be measured from all required fenced facility areas and shall be strictly enforced.
3. Any design, layout or site plan shall take into account the requirement to provide access to sunlight (TCA 66-9-202) and shall be the responsibility of the applicant to design the system as to not require or request any future variances to meet required state law.
4. Shall use anti-reflective coatings on all panels to mediate glare to prevent public hazard and nuisance.
5. Shall meet all requirements of current state adopted International Electric Code,

including but not limited to disconnect requirements.

6. All buried wiring and conduit shall be a minimum of 36" deep.
7. Shall meet all state mandated decommissioning requirements of TCA 66-9-207. Any commercial solar plant with a nameplate output rating between 101KW-10MW shall be decommissioned in accordance to the regulation specifications of TCA 66-9-207, however, no bond or financial assurance is required. Decommissioning shall be by developer, operator, lease, management or landowner and removed from the property as in the timeframe stated herein. Any solar plant that has been deemed "inactive" for one (1) year; shall immediately begin decommissioning. Decommissioning shall be complete within eighteen (18) months from date of inactivity. "inactive" shall be defined as: no longer in use or use has been reduced to less than 30% of original nameplate and permitted output rating or by any termination of any power purchase agreement (ppa) with any public utility.
8. Any accessory building utilized as office space, storage, control room or other function and which shall have bathrooms, kitchens or potable water supply shall be required to constructed to meet the state adopted building code and NEC electrical code. Public water shall be required; an approved septic system or public sewer shall be required.
9. Shall meet all state, federal and other governing authority requirements, provisions and certifications.

(B) General provision Power Plants-Substations

Electric Regulating Substations (4813) shall meet all requirements for a “use permitted on appeal”; Exemption: solely owned and or operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the substations.

1. Substations owned, leased, maintained or operated by any non-public utility, entity or person shall be meet all requirements of “use permitted on appeal”
 - a. Substations shall not exceed 40’ in height
 - b. Shall meet all state, federal and other governing authority requirements, provisions or certifications.

(C) General provisions Power Plants-Other (NEC)

Other (NEC) Electric Utilities (4819) shall meet all requirements for a “use permitted on appeal”; Exemption: solely owned and or operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the following devices:

1. Battery Storage units and facilities: Includes battery storage units and any other associated electrical utility functions utilized for the storage of generated energy.
 - a. Battery assemblies shall not exceed 15’ in height
 - b. All battery assemblies and units shall have a chemical fire suppressant system as a first response for explosion or electrical current runaway concerns
2. Inverters: Includes inverter and associated assemblies any other associated devices utilized for the conversion of electrically generated energy.

- a. Inverter assemblies shall not exceed 15' in height
 - b. All inverter assemblies and units shall have a chemical fire suppressant system as a first response for explosion or electrical current runaway concerns.
3. Any accessory building utilized as office space, storage, control room or other function and which shall have bathrooms, kitchens or potable water supply shall be required to be constructed to meet the state adopted building code and NEC electrical code. Public water shall be required; an approved septic system or public sewer shall be required.
 4. Any other electrical utility or function NEC (not elsewhere code)
- (v) Power Plant-Gas: (As defined in Chapter 2) Includes gas fired turbine engines, generator heads and support structures, inverters, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and all other accessories, buildings and structures defined by state law and owned, operated and maintained by a single entity or person.

(A) General provisions for Power Plants-Gas

1. Maximum height of any part of gas plant or accessory, or associated supporting structures shall not exceed 20'-0" at maximum height. Exemption: utility poles or structures are exempt from height requirements.
2. All minimum setback requirements in 5.02 shall be measured from all required fenced facility areas and shall be strictly enforced.
3. Shall meet all requirements of current state adopted National Electric Code, including but not limited to disconnect requirements.

4. All buried wiring and conduit shall be a minimum of 36" deep.
 5. Shall meet all state, federal and other governing authority requirements, provisions and certifications.
 6. 5.02 et al shall apply to gas plants.
 7. 5.02 et al shall apply to gas plants.
2. Gas Utilities (482); Exemptions: Any facility or easement owned, operated, managed, and maintained exclusively by any solely owned and or operated public or private utilities public or private utility or federal energy authority that provides services to the public and not subject to any state restrictions or requirements for operation.
- a. Gas Production Plants (4822) shall meet all requirements for a "use permitted on appeal"; Exemption: solely owned and or operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the plant.
 - (i) Gas plants: Includes all associated structures owned, leased, operated or maintained by a non-public utility, entity or person.
 1. Gas plants shall not exceed 40' in height
 2. Shall meet all state, federal and other governing authority requirements, provisions and certifications.

LUMBER, HARDWARE, BUILDING MATERIALS - except for -
Greenhouse and nursery products

FOOD, DRUG, BEVERAGE - limited to -
Bakery

AUTO DEALERS AND SERVICE STATIONS - limited to -
Auto parts (used)

EATING AND DRINKING PLACES - limited to -
Restaurants, cafes, cafeterias, microbreweries

PERSONAL SERVICES - limited to -
Shoe repair

WHOLESALE TRADE - limited to -
Transportation equipment including motor vehicles, aircraft and parts, boat building, railroad equipment, motorcycles, bicycles and parts.

UNDEVELOPED AND VACANT - limited to -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and waterways (man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the RI District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the RI District, there is no minimum lot size.

2. Maximum Lot Coverage

Within the RI Districts, the maximum lot coverage for all structures, including accessory structures, shall not exceed fifty (50) percent of the total lot area.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limits. Other exceptions may be made by the Planning Commission during the Site Plan Review process, so long as no fire hazard is created.

D. Yard Requirements

1. General Provisions

General provisions applicable to all industrial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 1.05 of this ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots within the RI Districts.

a. Front Yards

In all RI Districts, front yards shall be a minimum of forty (40) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards ^{xxi}

For all lots within the RI Districts the minimum side yard shall be twenty-five (25) feet.

c. Rear Yards ^{xxii}

For all lots within the RI Districts, the minimum rear yard shall be twenty-five (25) feet.

E. Use of Required Area

The following uses may be made of yard areas in the RI Districts.

1. Landscaping
All yards not occupied by driveways and sidewalks shall be devoted to landscaping as defined in Section 2.02.
2. Driveways and Accessory Off-street Parking
No driveway or parking area shall occupy more than one-half of any required yard.
3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:
 - a. Be drawn on a scale of 1" = 100';
 - b. Include the following:
 - All existing and proposed roads and drainage ways;
 - Curb cuts, drives and parking areas;
 - Landscaping and planting screens;
 - Building lines enclosing the portion of the tract within which the buildings are to be erected;
 - The proposed use of the land and buildings;
 - The existing zoning
 - c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.
 - d. Include a vicinity map showing the relationship of the proposed development to Brownsville.
 - e. Show the relation of the proposed development to:
 - The street system;
 - The surrounding use district, and
 - Surrounding properties
 - f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;
 - g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.

2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
4. The certification required of the owner and trustee of the mortgage in 6.02 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosure Requirements

All uses shall be conducted within completely enclosed buildings except for parking and loading, exterior storage and other accessory uses that by nature must exist outside a building.

2. Exterior Storage

Exterior storage may be permitted in the side and rear yards of the principal building only, provided the location, extent, and screening of storage is approved as a part of the site plan by the Planning Commission; and further, provided that exterior storage shall be screened from public view by a suitable fence, wall or hedge not exceeding fifteen (15) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.

3. Surfacing of Storage Areas

All storage areas shall be surfaced to provide a durable and dust-free surfaced. All areas shall be graded and drained so as to dispose of all surface water in the area.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within RI-Restrictive Industrial Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

5.03 GI - GENERAL INDUSTRIAL DISTRICT

A. Purpose and Intent

These districts are designed to provide space for a wide range of industrial and related uses which by reasons of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from non-industrial uses. Residential uses are excluded from these districts.

B. Uses and Structures

1. Principal Permitted Uses and Structures

INSTITUTIONAL - limited to -

- Parks, playgrounds and playfields
- Community centers
- Post Offices (excluding major mail processing centers)
- Police and fire stations

PUBLIC UTILITIES - limited to -

- Communications, installations or exchanges
- Electric or gas substations
- Electric, communication and telephone distribution lines, poles, transformers and splice boxes (but not including electric transmission lines)
- Water, storm drainage and sewer lines, and gas distribution lines with incidental appurtenances (but not including major fuel transmission lines)
- Private Streets
- Rights-of-way to all modes of transportation
- Small landscaped, scenically significant open areas, natural reserves
- Utilities limited to and provided that any uses allowed under this section shall be as follows:

1. Electric utilities (481); Shall include all power plants, accessory structures and functions. Exemptions: Any facility or easement solely owned, operated, managed, and maintained by any public or private utility or federal energy authority that provides services to the public and not subject to any state restrictions or requirements for operation or decommissioning.
 - a. All Power Plants (Electric Generation Plants-4812) All power plants generating 1MW of power or more (consistent with TCA 66-9-207 and requiring decommissioning) shall obtain and submit an environmental assessment consistent with all rules, regulations, NEPA boundaries, public participation and

requirements as utilized by TVA for environmental assessments. Any 3rd party environmental assessment may be utilized provided the minimum requirements stated above are met. Exemption: solely owned and or operated public or private utilities or federal energy authority. Power Plants shall include:

- (i) Geothermal, Hydroelectric, Peaker and Backup Power Plants: Includes all associated structures owned or leased, operated and maintained by a non-public utility, entity or person.

- 1. Shall meet all state, federal and other governing authority requirements

- (ii) Nuclear Power Plant: Includes all associated structures owned or leased, operated and maintained by a single entity or person.

- 1. Shall meet all state, federal and other governing authority requirements

- (iii) Private Power Plant-Wind: Includes wind turbines and support structures, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and other accessories owned or leased, operated and maintained by a non-public utility, entity or person.

(A) General provisions for Power Plants-Wind

- 1. Maximum height of any part of wind plants or accessory, or associated supporting structures shall not exceed 250' at maximum height. Exemption: utility poles or structures are exempt from height requirements.
- 2. All minimum setback requirements in 5.03 shall be measured from all required fenced facility areas and shall be strictly enforced.
- 3. Distance required from location of a wind turbine to the fenced protected area shall be at least 10' beyond the height from the center of the mounted structure.

4. Shall meet all requirements of current state adopted National Electric Code, including but not limited to disconnect requirements.
 5. All buried wiring and conduit shall be a minimum of 36" deep.
 6. Shall meet all state, federal and other governing authority requirements, provisions and certifications.
 7. 5.03 et al shall apply to wind plants.
 8. 5.03 et al shall apply to wind plants.
- (iv) Power Plant-Solar: (Includes "solar" as defined in Chapter 1) Includes collection panels and support structures, inverters, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and all other accessories, buildings and structures defined by state law and owned, operated and maintained by a non-public utility, entity or person.

State Law Definitions: Solar power facility is defined in TCA 66-9-207; Solar energy system is defined in TCA 66-9-203; both terms shall be synonymous with "solar" and applied as a "utility" use for the purpose of this Resolution and as specified in the Standard land use code manual (48). "Solar" shall be deemed an Electric Generation Plant as stated in the Standard Land Use Code Manual (4812).

Power Plant- Solar shall in no way be construed a utility, commercial enterprise or facility if power produced has less than a 100KW nameplate rating, is utilized for personal use, to off-set a power costs to a single-family dwelling, to power household devices, rooftop power production or other non-commercial uses. Solar may be utilized for agriculture up to the power output needed to run an agriculture operation on the parcel of which the agriculture operation is located.

(A) General provisions for Power Plants-Solar

1. Maximum height of any part of an array, accessory, or associated supporting structure shall not exceed 15'-0" at maximum vertical tilt or free-standing height. Exemption: utility poles or structures are exempt from height requirements.
2. All minimum setback requirements in 5.03 shall be measured from all required fenced facility areas and shall be strictly enforced.
3. Any design, layout or site plan shall take into account the requirement to provide access to sunlight (TCA 66-9-202) and shall be the responsibility of the applicant to design the system as to not require or request any future variances to meet required state law.
4. Shall use anti-reflective coatings on all panels to mediate glare to prevent public hazard and nuisance.
5. Shall meet all requirements of current state adopted International Electric Code, including but not limited to disconnect requirements.
6. All buried wiring and conduit shall be a minimum of 36" deep.
7. Shall meet all state mandated decommissioning requirements of TCA 66-9-207. Any commercial solar plant with a nameplate output rating between 101KW-10MW shall be decommissioned in accordance to the regulation specifications of TCA 66-9-207, however, no bond or financial assurance is required. Decommissioning shall be by developer, operator, lease, management or landowner and removed from the property as in the timeframe stated herein. Any solar plant that has been deemed "inactive" for one (1)

year; shall immediately begin decommissioning. Decommissioning shall be complete within eighteen (18) months from date of inactivity. “inactive” shall be defined as: no longer in use or use has been reduced to less than 30% of original nameplate and permitted output rating or by any termination of any power purchase agreement (ppa) with any public utility.

8. Any accessory building utilized as office space, storage, control room or other function and which shall have bathrooms, kitchens or potable water supply shall be required to constructed to meet the state adopted building code and NEC electrical code. Public water shall be required; an approved septic system or public sewer shall be required.
9. Shall meet all state, federal and other governing authority requirements, provisions and certifications.

(B) General provision Power Plants-Substations

Electric Regulating Substations (4813) shall meet all requirements for a “use permitted on appeal”; Exemption: solely owned and or operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the substations.

1. Substations owned, leased, maintained or operated by any non-public utility, entity or person shall be meet all requirements of “use permitted on appeal”
 - a. Substations shall not exceed 40’ in height
 - b. Shall meet all state, federal and other governing authority requirements, provisions or certifications.

(C) General provisions Power Plants-Other (NEC)

Other (NEC) Electric Utilities (4819) shall meet all requirements for a “use permitted on appeal”; Exemption: solely owned and or operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the following devices:

1. Battery Storage units and facilities: Includes battery storage units and any other associated electrical utility functions utilized for the storage of generated energy.
 - a. Battery assemblies shall not exceed 15’ in height
 - b. All battery assemblies and units shall have a chemical fire suppressant system as a first response for explosion or electrical current runaway concerns
2. Inverters: Includes inverter and associated assemblies any other associated devices utilized for the conversion of electrically generated energy.
 - a. Inverter assemblies shall not exceed 15’ in height
 - b. All inverter assemblies and units shall have a chemical fire suppressant system as a first response for explosion or electrical current runaway concerns.
3. Any accessory building utilized as office space, storage, control room or other function and which shall have bathrooms, kitchens or potable water supply shall be required to be constructed to meet the state adopted building code and NEC electrical code. Public water shall be required; an approved septic system or public sewer shall be required.
4. Any other electrical utility or function NEC (not elsewhere code)

- (v) Power Plant-Gas: (As defined in Chapter 2) Includes gas fired turbine engines, generator heads and support structures, inverters, accessory structures, wiring/conduit, fencing (includes all area of land within fencing), and all other accessories, buildings and structures defined by state law and owned, operated and maintained by a single entity or person.

(A) General provisions for Power Plants-Gas

1. Maximum height of any part of gas plant or accessory, or associated supporting structures shall not exceed 20'-0" at maximum height. Exemption: utility poles or structures are exempt from height requirements.
 2. All minimum setback requirements in 5.03 shall be measured from all required fenced facility areas and shall be strictly enforced.
 3. Shall meet all requirements of current state adopted International Electric Code, including but not limited to disconnect requirements.
 4. All buried wiring and conduit shall be a minimum of 36" deep.
 5. Shall meet all state, federal and other governing authority requirements, provisions and certifications.
 6. 5.03 et al shall apply to gas plants.
 7. 5.03 et al shall apply to gas plants.
2. Gas Utilities (482); Exemptions: Any facility or easement owned, operated, managed, and maintained exclusively by any solely owned and or operated public or private utilities public or private utility or federal energy authority that provides services to the public and not subject to any state restrictions or requirements for operation.
- a. Gas Production Plants (4822) shall meet all requirements for a "use permitted on appeal"; Exemption: solely owned and or

operated public or private utilities public or private utilities or federal energy authority that solely own, lease, operate, maintain and manage the plant.

- (i) Gas plants: Includes all associated structures owned, leased, operated or maintained by a non-public utility, entity or person.

1. Gas plants shall not exceed 40' in height
2. Shall meet all state, federal and other governing authority requirements, provisions and certifications.

LUMBER, HARDWARE, BUILDING MATERIALS

All uses

MANUFACTURING – limited to –

Manufacturing processing or fabrication:

Canned or preserved fruits or vegetables
 Bakery products
 Bottling plants
 Candy and confectioneries
 Apparel and leather gloves and mittens
 Luggage, handbags and other personal leather goods
 Glass products made of purchased glass
 Communication equipment
 Electronic components and accessories
 Professional scientific and controlling instruments
 Photographic and optical goods
 Watches and clocks and jewelry
 Silverware and plated ware
 Furniture and Fixtures
 Primary metal industries
 Automotive parts
 Paper processing – not to include paper mills
 Fabricated Metal Products
 Casting industries

BUSINESS SERVICES - limited to -

Warehousing and storage
 Photofinishing
 Research services (private)
 Metal and wood fencing, ornamental grill work
 Central laundry, dyeing and dry cleaning work
 Freight forwarding office
 Truck terminal
 Equipment rental and leasing

REPAIR SERVICES

All uses

CONTRACT CONSTRUCTION SERVICES

All uses

WHOLESALE TRADE - all - except for -

Manufacture, assembly, processing, storage, distribution of chemicals, drugs, soap, fertilizers and abrasive products

Scrape metal processors

Stone, clay, glass, and related mineral products; mortar, plaster paving materials.

UNDEVELOPED AND VACANT - except for -

Circuses, carnivals and similar transient enterprises

Open water including ponds, lakes and reservoirs, streams and water ways (all man made)

2. Permitted Accessory Uses and Structures

a. Accessory off-street parking and loading facilities as required in Chapter 7 of this ordinance.

b. Accessory facilities and buildings customarily incidental to a permitted use

3. Conditional Uses

INSTITUTIONAL - limited to -

Country Club

Airports, air cargo terminals, heliports and any other aeronautical device

Major mail-processing centers

Military installations

Colleges, junior colleges and universities, but excluding business schools operated as profit-making enterprises

All golf courses

Stadiums, sports arenas, auditoriums and bandstands

Zoological gardens

Temporary nonprofit festivals

Places of Worship

PUBLIC UTILITIES - limited to -

Railroad, bus, and transit terminals

Public and private utility corporations and truck yards

Radio and television transmission stations

Reservoirs and water tanks

Electric transmission lines and major fuel transmission lines

Gas, electric production and treatment facilities

Water production, treatment facility

Sewage disposal treatment plants

LUMBER, HARDWARE, BUILDING MATERIALS - except for -

Greenhouse and nursery products

FOOD, DRUG, BEVERAGE - limited to -

Bakery

AUTO DEALERS AND SERVICE STATIONS - limited to -
Auto parts (used)

EATING AND DRINKING PLACES - limited to -
Restaurants, cafes, cafeterias

PERSONAL SERVICES - limited to -
Shoe repair

WHOLESALE TRADE - limited to -
Manufacture, assembly processing, storage of, or distribution of chemicals,
drugs, soap, fertilizers and abrasive products
Scrape metal processors
Stone, clay, glass and related mineral products, mortar, and plastic paving
materials

UNDEVELOPED AND VACANT - limited to -
Circuses, carnivals and similar transient enterprises
Open water including ponds, lakes and reservoirs, streams and waterways
(man-made).

4. Prohibited Uses

Any use not allowed by right, by accessory use or by conditional use is prohibited in the GI District.

C. Bulk Regulations

1. Minimum Required Lot Area

Within the GI District, the minimum lot size shall be two (2) acres.

2. Maximum Lot Coverage

Within the GI Districts, the maximum lot coverage for all structures, including accessory structures, shall not exceed fifty (50) percent of the total lot area.

3. Maximum Height

The maximum height of a front wall or other portion of a building or other structure at the street level shall be seventy-five (75) feet above the finished grade. However, this limitation shall not apply to those uses spelled out in 1.04 (D) Exception on Height Limits. Other exceptions may be made by the Planning Commission during the Site Plan Review process, so long as no fire hazard is created.

D. Yard Requirements

1. General Provisions

General provisions applicable to all industrial districts concerning visibility at intersections, permitted obstruction in required yards, obstructions prohibited at street intersections, exceptions to these provisions and other regulations are contained in Section 1.05 of this ordinance.

2. Basic Provisions

The basic yard regulations appearing below apply to all zone lots within the GI Districts.

a. Front Yards

In all GI Districts, front yards shall be a minimum of forty (40) feet. On double frontage and corner lots, there shall be a front yard on each street.

b. Side Yards ^{xxiii}

For all lots within the GI Districts the minimum side yard shall be twenty-five (25) feet.

c. Rear Yards ^{xxiv}

For all lots within the GI Districts the minimum rear yard shall be twenty-five (25) feet.

E. Use of Required Area

The following uses may be made of yard areas in the GI Districts.

1. Landscaping

All yards not occupied by driveways and sidewalks shall be devoted to landscaping as defined in Section 2.02.

2. Driveways and Accessory Off-street Parking

No driveway or parking area shall occupy more than one-half of any required yard.

3. Sidewalks

F. Site Plan Review

1. Prior to issuance of a building permit, a Site Plan for the use and development of the entire tract shall be submitted to the Planning Commission. The Site Plan shall conform to the following requirements:

a. Be drawn on a scale of 1" = 100';

b. Include the following:

-All existing and proposed roads and drainage ways;

-Curb cuts, drives and parking areas;

-Landscaping and planting screens;

-Building lines enclosing the portion of the tract within which the buildings are to be erected;

-The proposed use of the land and buildings;

-The existing zoning

c. Show the building elevations for the front, rear and sides of all buildings and any proposed signs.

d. Include a vicinity map showing the relationship of the proposed development to Brownsville.

e. Show the relation of the proposed development to:

-The street system;

-The surrounding use district, and

-Surrounding properties

f. Bear a certificate by a licensed surveyor, architect, contractor or civil engineer certifying that the plan as shown is true and correct;

- g. Bear a form for certificate of approval by the Secretary of the Planning Commission
 - h. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets as shown on the plan and agree to make any required improvements of adjacent streets as shown on the plan.
2. The Planning Commission shall review the Site Plan within thirty (30) days. Where conditions have been required of the applicant, such changes, as required by the Planning Commission, shall have been made.
 3. The Planning Commission shall approve the Site Plan as submitted or reject the Site Plan as submitted. The reasons for rejection of the Site Plan shall be certified to the applicant in writing. The Planning Commission shall have the authority to give conditional approval to a Site Plan, subject to minor revisions being required of the applicant.
 4. The certification required of the owner and trustee of the mortgage in 6.02 (F) (1) (h) of this ordinance shall serve as the commitment by the owner that the site will be developed as shown on the approved Site Plan. Upon such certification by the owner, the approved Site plan shall be recorded by the owner with the Haywood County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the Building Inspector notes variations from the approved Site Plan, he shall direct that the variations be corrected within a specified period. If, after proper notice by the Building Inspector, the owner has not complied with the provisions of the approved Site Plan, the Building Inspector shall have the authority to cite the owner to Municipal Court for violation of this ordinance.
 5. The Building Inspector shall have the authority to authorize minor revisions to the approved Site Plan during the process of construction, if, in his opinion, the revisions do not substantially alter the nature of the approved Site Plan, with the written concurrence of the Chairman of the Planning Commission.

G. Other Requirement

1. Enclosure Requirements

All uses shall be conducted within completely enclosed buildings except for parking and loading, exterior storage and other accessory uses that by nature must exist outside a building.

2. Exterior Storage

Exterior storage may be permitted in the side and rear yards of the principal building only, provided the location, extent, and screening of storage is approved as a part of the site plan by the Planning Commission; and further, provided that exterior storage shall be screened from public view by a suitable fence, wall or hedge not exceeding fifteen (15) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.

3. Surfacing of Storage Areas

All storage areas shall be surfaced to provide a durable and dust-free surfaced. All areas shall be graded and drained so as to dispose of all surface water in the area.

H. Certificate of Occupancy / Compliance Requirement

Prior to the installation of services provided by the Brownsville Energy Authority for uses within GI- General Industrial Districts, a Certificate of Occupancy / Compliance shall be obtained from the City of Brownsville Building and Codes Enforcement Department.

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CHAPTER 6: PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS (FH)^{xxv}

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section 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 Brownsville, Tennessee, Mayor and Board of Alderman, do ordain as follows:

Section B. Findings of Fact

1. The City of Brownsville, 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 Brownsville, 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.

Section C. Statement of Purpose

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

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. Objectives

The objectives of this Ordinance 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 floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To maintain eligibility for participation in the NFIP.

ARTICLE II. DEFINITIONS

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

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, 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 Ordinance 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 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 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 Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

"Existing Construction" 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 **"Floodprone Area"** means any land area susceptible to being inundated by water from any source (see definition of "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 municipalization 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 Brownsville, 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 Ordinance.

"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 Ordinance, 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 ordinance 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. 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 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, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

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

"Substantial Damage" 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 Ordinance.

"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 Ordinance 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.

ARTICLE III. GENERAL PROVISIONS

Section A. Application

This Ordinance shall apply to all areas within the incorporated area of the City of Brownsville, Tennessee.

Section B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the City of Brownsville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS, #47075CV00A) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 7075C0140D, 47075C0230D, 47075C0231D, 47075C0232D, 47075C0233D, 47075C0234D, 47075C0245D, 7075C0251D, 47075C0253D, 47075C0265D, dated 04/16/2008, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

Section C. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

Section D. Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Section G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Brownsville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

Section H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Brownsville, Tennessee from taking such other lawful actions to prevent or remedy any violation.

ARTICLE IV. ADMINISTRATION**Section A. Designation of Ordinance Administrator**

The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

Section B. Permit Procedures

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following:

plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage

- a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
- b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
- c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections 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 non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

Section 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 Ordinance 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 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 FIRM's 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 Article IV, Section 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 Article IV, Section 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 Article IV, 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 Ordinance.

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 Brownsville, Tennessee FIRM meet the requirements of this Ordinance.
11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 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 Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section 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.

Section B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section 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 one (1) foot above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

2. Non-Residential Structures

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

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section 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.
 - 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or 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 Article V, Section 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:
 - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).

- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections 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:
 - 1) Be on the site for fewer than 180 consecutive days;
 - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - 3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

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

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

Section 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 Article III, Section 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 Brownsville, Tennessee and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

Section 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 Article III, Section 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 Article V, Sections A and B.

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

Located within the Special Flood Hazard Areas established in Article III, Section 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 Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Brownsville, 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 Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section 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.

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

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

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above 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 Article V, Section B.
2. All new construction and substantial improvements of non-residential 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 Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.

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

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

Located within the Areas of Special Flood Hazard established in Article III, Section 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 Article IV and Article V shall apply.

Section H. Standards for Unmapped Streams

Located within the City of Brownsville, 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 Articles IV and V.

ARTICLE VI. VARIANCE PROCEDURES

Section A. Municipal Board of Zoning Appeals

1. Authority

The City of Brownsville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2. Procedure

Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions

thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the 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 Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of in accordance with City policy 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 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 Ordinance.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The City of Brownsville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed

repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.

- 3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
- a) The danger that materials may be swept onto other property to the injury of others;
 - b) The danger to life and property due to flooding or erosion;
 - c) The susceptibility of the proposed facility and its contents to flood damage;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

- 4) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
- 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section 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 Article VI, Section 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.

ARTICLE VII. LEGAL STATUS PROVISIONS

Section A. Conflict with Other Ordinances

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Brownsville, Tennessee, the most restrictive shall in all cases apply.

Section B. Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

CHAPTER 7: OFF-STREET PARKING AND LOADING REGULATIONS

7.01 Off-Street Parking^{xxvi}

A. General / Intent

There shall be provided at the time of erection of any main building or at the time such buildings are enlarged, converted or increased in capacity minimum off-street parking space with adequate provision for ingress and egress by vehicles in accordance with the requirements of this code.

The intent of this section's code is to encourage the appropriate location, design and number of parking spaces ensuring the residents and visitors to Brownsville safe level of service. It is also the intent to reduce undue congestion to streets, to avoid conflicts between vehicles and pedestrians and to not overburden businesses with the unnecessary costs associated excessive parking. Finally, it is the intent of the following regulations to reduce impervious surfaces, thereby increasing the demands of storm water management systems.

B. Parking space requirements.

1. Required number

The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 701.1, provided that any fractional parking space is computed as a whole space.

2. Combination of uses

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

3. Location of lot

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

4. All parking spaces within parking lot facilities shall be paved with the exception of those existing which serve as accessory uses to Industries that primarily utilize semi-tractor trailer trucks for transportation purposes.

C. Parking stall Area

All parking stalls shall be a minimum of two hundred (200) square feet and shall have a minimum stall width of ten (10) feet.

D. Design of parking facilities

1. Driveway width

Every parking facility shall be provided with one or more access driveways, the minimum width of which shall be the following:

- a. Residential driveways at least nine (9) feet

- b. Multifamily and Commercial driveways:
- (1) Twelve (12) feet for one-way enter/exit
 - (2) Twenty-four (24) feet for two-way enter/exit
2. Driveway and ramp slopes
The maximum transition slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways, and ramps shall be provided in accordance with the standards set by the code official and the jurisdiction's engineer.
3. Stall accessibility
Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.
4. Ratio of Spaces to Dwelling Unit, Net Floor Area, Guest Rooms or Employees per Shift

**Table 701.1
Off-Street Parking Schedule**

Use	Minimum Number of Parking Spaces Required
Dwelling Units	2 spaces per dwelling unit
Professional Services, Personal Services, Professional Office, Medical Office, Restaurants, Commercial, Retail, Health Clubs, Public Assembly	1 space per 300 square feet of net floor area
Private Schools	1 space per faculty member
Hotels/Motels	1 space per guest room plus one (1) space per 300 square feet of public assembly (convention or large conference space area(s)).
Warehouse / Industrial	1 space per employee / per shift with largest workforce

Note: The ratios above are intended to be the minimum recommendation for a business. Individual business must determine their specific parking needs and plan accordingly. Businesses that produce unnecessary on-street parking will be asked to submit a plan to the building official or code enforcement officer to adequately address this problem.

5. Parking Stall Marking - All parking stalls shall be marked with the exception of private garage or parking area for the exclusive use of a single-family dwelling.
6. Lighting - All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.
7. Incentives – The number of parking stall requirements will be further reduced by 25% if pervious asphalt/concrete is used or if one (1) canopy tree per nine (9) feet of landscaped islands is provided or if landscaped islands every fifteen (15) parking stalls are provided.

E. Accessible Parking Requirements

Where parking is provided, accessible parking spaces shall be provided in compliance with Table 701.2. Where more than one parking facility is provided on a site, the number of parking spaces required to be accessible shall be calculated separately for each parking facility.

Exception: This section does not apply to parking spaces used exclusively for buses, trucks, other delivery vehicles, law enforcement vehicles or vehicle impound and motor pools where lots accessed by the public are provided with an accessible passenger loading zone.

Table 701.2
Off-Street Accessible Parking Spaces

Total Parking Spaces Provided in Parking Facilities	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus one for each 100, or fraction thereof, over 1,000

1. At least 10%, but not less than one, of care recipient and visitor parking spaces provided to serve hospital outpatient facilities shall be accessible.
2. At least 20%, but not less than one, of the portion of care recipient and visitor parking spaces serving rehabilitation facilities specializing in

treating conditions that affect mobility and outpatient physical therapy facilities shall be accessible.

3. For every six (6) or fraction of six accessible parking spaces, at least one shall be a van-accessible parking space.
4. Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

Exceptions:

- a. In multilevel parking structures, van-accessible spaces are permitted on one level.
- b. Accessible parking spaces shall be permitted to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, parking fee and user convenience.

F. 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:

1. A point of access, i.e., a driveway opening for vehicles onto a street, shall not exceed twenty (20) feet in Medical Professional Office, or Residential Districts, and forty (40) feet in Commercial and Industrial Districts. Additional footage for access widths may be granted when considered necessary for proper traffic flow as it pertains to public safety, and also following the approval of the Board of Zoning Appeals. On State Routes, points of access may not exceed the Tennessee Department of Transportation's requirements.
2. There shall be no more than two (2) points of access to any one (1) public street on a lot of any width. Lots less than one hundred (100) feet in width shall have no more than one (1) point of access to any one public street.
3. No point of access shall be allowed within ten (10) feet of the right-of-way of any public street intersection.
4. The area existing between the street and an interior parking space or driveway parallel to the street shall have a curb of at least six (6) inches in height and six (6) inches in width separating the parking area from the sidewalk, to prevent encroachment of vehicles onto the sidewalk area.
5. No curbs on city streets or rights-of-ways shall be cut or altered without written approval of the Public Works Director and or City Building Inspector.

6. All residential access points / driveways shall contain a concrete or asphalt surface for a minimum distance of 100 feet starting from the edge of the street. Gravel shall not be permitted within the first 100 feet.
7. Cases requiring variances and special exceptions relative to this section, and hardships not caused by the property owner, shall be heard and acted upon by the Board of Zoning Appeals.

7.02 LOADING SPACES

A. General

Loading spaces shall be provided on the same lot for every building over 10,000 Square feet in area in the GC, NC, MPO, SCC, RI or GI zones. The BZA shall be authorized to waive this requirement on unusual lots. If more than one loading dock or area is to be used each area shall have a loading space as required below.

B. Size

Each loading space shall have a clear height of 14 feet. The minimum area of a loading space shall be 660 square feet and the minimum dimensions shall be 55 feet long and 12 feet deep.

CHAPTER 8: PROVISIONS GOVERNING NON-CONFORMING USES

8.01 STATEMENT OF PURPOSE

In order to guide the development of compatible land use patterns in Brownsville, nonconforming uses that adversely affect the development of such areas must be subject to certain limitations. The provisions of this article are designed to provide a gradual remedy for existing undesirable conditions that result from incompatible nonconforming uses. While such uses are generally permitted to continue, these provisions are designed to restrict further investment in these uses.

In the case of a few objectionable nonconforming uses that are detrimental to the character of certain districts, a reasonable statutory period is established during which these uses shall be terminated. In the case of buildings or other structures not complying with the bulk regulations of this ordinance, these provisions are established to permit the appropriate use of these structures while preventing the creation of additional non-compliance.

The provisions are thus designed to preserve the character of the districts established in this ordinance and thus to promote and protect the public health, safety and general welfare.

8.02 PROVISIONS GOVERNING NONCONFORMING USES

A. Applicability

The provisions of this section apply to all uses that are not permitted within the districts in which they are located. These provisions also apply to all uses in flood hazard districts that do not meet floodproofing standards.

B. Continuation of Nonconforming Use

Any nonconforming use that existed lawfully at the time of enactment of this ordinance, or any use that shall become nonconforming upon enactment of this ordinance and subsequent amendments may be continued subject to the following provisions.

C. Variances and Conditional Uses

Whenever the zoning ordinance in effect at the time of adoption of this ordinance has authorized a use by issuing a variance or conditional use permit, such authorization may be continued in accord with the conditions which were established at the time the variance or conditional use was granted.

When such use was authorized subject to a term of years, that use may be continued until the expiration of the term, and thereafter, the Board of Zoning Appeals may, in appropriate cases, extend the period of continuance for one or more terms of not more than five (5) years each. The Board of Zoning Appeals may prescribe appropriate conditions and safeguards to minimize the effects of such use on the character of the neighborhood.

D. Repairs, Alterations and Expansions of a Non-Conforming Use

1. Incidental Alterations

Incidental alterations as defined by this ordinance may be made to a building or structure occupied by a non-conforming use.

2. Alterations Other Than Incidental Alterations

No alterations other than Incidental alterations shall be made to a building or other structure occupied by a nonconforming use except when made:

- a. In order to comply with requirements of law regarding fire protection, safety of the structure, etc.
- b. In order to conform to the applicable district regulations.

3. Repair of Non-Conforming Use

No structure used for a non-conforming use shall be rebuilt or repaired after damage exceeding seventy-five (75) percent of replacement cost unless the use and structure conform to the provisions of this ordinance.

No structure used for a non-conforming use shall be expanded except in conformity with this ordinance.

The non-conforming use of land, not involving a building or structure, or involving a use or structure that is Incidental or accessory to the principal use of the land, shall not be expanded beyond the area it occupies.

E. Change of Non-Conforming Use

1. General Provisions

For the purpose of this ordinance, a change in use is a change in the type 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 involving a use or structure that is Incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Change of Non-conforming Use to Non-Conforming Use

In all districts, a nonconforming use or structures may not be changed to another non-conforming use.

F. Discontinuance

No non-conforming use, structure or use of land shall be reestablished after discontinuance of one year.

G. Special Exception for Non-conforming Commercial and Industrial Uses.

For any non-conformities created after the passage of Chapter 279 of the Public Act of 1973 of the State of Tennessee the following shall apply:

1. Any industrial or commercial nonconforming use created after the passage of Chapter 279 of the Public Act of 1973 shall be permitted to continue in operation provided that no change in the use of the land is undertaken by such industry or business.
2. Such nonconforming commercial and industrial use shall be allowed to expand operations and construction additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were activities of the industry or business which were permitted and being conducted prior to the zoning change which created the nonconforming use, provided that there is a reasonable amount of space for such expansion on the property owned by such business or industry situated in the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.
3. Such nonconforming commercial and industrial use shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business provided that no destruction and rebuilding shall occur which changes the use classification of a nonconforming use. A building permit shall not be denied to such a nonconforming commercial or industrial use provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.
4. The provisions of this section shall apply only to land owned and in use such affected business or industry, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land.

8.03 NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

A. General Provisions

The provisions of this section shall control building 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.

B. Continuance of Use

The use of a non-complying building or other structure or parcel may be continued, except as otherwise provided by this ordinance.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in non-complying buildings or other structures subject to the provisions found below.

D. Enlargements of Conversions

A non-complying 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.

1. 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 of zone lot being smaller than required for the number

of dwelling units on such zone lot) such building may be converted (and, in mixed use buildings, the residential use may be extended, except when in the Flood hazard District), provided that the deficiency in the required lot area is not thereby increased (for example, a non-complying building on a zone lot of 2,500 square feet, which before conversion required a lot area of 4,000 square feet and was, therefore, deficient by 1,500 square feet, can be converted into any combination of dwelling units requiring a lot area of no more than 4,000 square feet.

E. Damage or Destruction on Noncomplying Uses

1. Permitted Reconstruction

In all districts, when a non complying building or other structure is damaged by any involuntary means to the extent of seventy-five (75) percent or more of its total floor area, such building or other structure may be reconstructed in accordance with the applicable bulk regulations and other provisions of this ordinance.

2. Use of Alternate Formula

In any case where the applicant or building inspector alleges that floor area is an inappropriate measure to the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Appeals to determine the extent of such damage or destruction. Said Board may grant such application permitting such a building or other structure to be reconstructed as provided in 8.03 (E) (1) only when the Board finds that the ratio which the estimated cost of reconstructing the damage or destroyed portion of such building or structure is not greater than seventy-five (75) percent or the estimated cost of reconstructing the entire building or structure.

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CHAPTER 9: ADMINISTRATION, ENFORCEMENT AND LEGAL STATUS

9.01 ORGANIZATION AND PURPOSE

The administration of this ordinance is hereby vested in two offices of the government of the City of Brownsville, Tennessee as follows:

The Office of Building Inspector

The Board of Zoning Appeals

It is the purpose of this article to set out the authority of each of these two offices and then describe the procedures and substantive standards with respect to the following administrative functions:

Issuance of Building Permits

Issuance of Use and Occupancy Permits

Performance Standards

Variances

Conditional Use Permits

Amendments

9.02 APPOINTMENT AND DUTIES OF THE BUILDING INSPECTOR

A. Appoint of the Building Inspector

The Building Inspector shall be executive head of the office and shall be appointed by the Brownsville City Board in accordance with all applicable administrative procedures.

B. Duties of the Building Inspector

The Building Inspector shall enforce this ordinance, and in addition thereto and in furtherance of said authority he shall:

- 1 Issue all building permits, and made and maintain records thereof;
- 2 Issue all use and occupancy permits, and make and maintain all records thereof;
- 3 conduct inspections of buildings, structures, and use of land to determine compliance with the provisions of this ordinance;
- 4 maintain permanent and current records of this ordinance, and subsequent amendments, including, but no limited to, all maps, amendments, conditional uses, variations, appeals and applications therefore;
- 5 Provide information to the public on all matters relating to this ordinance;
- 6 Receive, file and forward to the Planning Commission all applications for amendments to this ordinance;
- 7 Receive, file and forward to the Board of Zoning Appeals all applications for variances, conditional use permits, and all other matters on which the Board is required to pass under the provisions of this ordinance.

8 Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make reports of his recommendations to the Planning Commission.

C. Powers of the Building Inspector Regarding the Issuance of Permits

The Building Inspector shall have the power to grant building permits and use and occupancy permits, and make inspection of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the Building Inspector to approve any plan or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this ordinance.

Under no circumstances is the Building Inspector permitted to make changes in this ordinance or to vary its terms and provisions in carrying out his duties.

The Building Inspector shall not refuse to issue a permit when conditions imposed by this ordinance are complied with by the applicant despite the violations of contracts such as covenants or private agreements which may occur upon the granting of said permit.

9.03 BUILDING PERMITS AND USE AND OCCUPANCY PERMITS

A. Building Permits Required

No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the building inspector.

Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by an officer, department, or employee of the City of Brownsville unless the application for such permit has been examined by the building inspector and has affixed to it a certificate from the building inspector indicating that the proposed building or structure complies with all the provisions of this ordinance. Any building permit or use and occupancy permit issued in conflict with the provisions of this ordinance shall be null and void.

B. Plot Plan Required for Building Permits

The building inspector shall require that all applications for industrial building permits be accompanied by a plot plan, drawn to a scale of 1"=20' and showing the following information:

1. Residential Buildings or Other Structures Involving Two Units or Less Located on a Single-Zone Lot

The plot plan of any residential building or other structures of residential activity with two dwelling units or less on a zone lot shall indicate:

- a. The actual shape, location and dimensions of the lot;
- b. The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot;
- c. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- d. Any fences to be built during the construction of a residence or built on the lot of an existing residence must be shown on a plot plan. The plan shall be drawn to scale, and shall indicate the location and the height of the proposed fence.

The building inspector shall use this information and may request any additional information he deems necessary in order to determine that the proposed fence does not constitute a traffic hazard. If he determined that the fence may create a hazard to traffic, he shall refuse to issue a building permit until changes that he specifies are made to the plot plan to correct the problem.

2. All Other Buildings, Structures and Activities

The plot plan of any other building, structure or activity shall indicate:

- a. The actual shape, location and dimensions of the lot;
- b. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already of the lot;
- c. The existing and intended use of the lot and of all such structures upon it, including, for residential activities, the number of dwelling units the building is intended to accommodate;
- d. Location of all driveways and entrances;
- e. Location of all accessory off-street parking areas to include a plot plan showing design and layout of such parking facilities where five or more accessory off-street parking spaces are to be provided;
- f. Location of all accessory off-street loading berths;
- g. Location of open space;
- h. Proposed ground coverage, floor area, and building heights;
- i. Position of fences and walls (materials specified);
- j. Position of screen planting (type of planting specified);
- k. Location of windows and courts;
- l. Location, type and size of proposed signs;
- m. Proposed means of surface drainage;
- n. Location of all easements and rights-of-way;
- o. Certification of compliance with applicable performance standards;
- p. Location of areas subject to flooding;
- q. Percolation tests where subsoil sewage disposal is anticipated.

C. Use and Occupancy Permit Required

No building or addition thereto, constructed after the effective date of this ordinance, and no addition to a previously existing building shall be occupied, and no land shall be used for any purpose, until a use and occupancy permit has been issued by the building inspector. No change in a use other than that of a permitted use shall be made until a use and occupancy permit has been issued by the building inspector.

D. Application for Use and Occupancy Permit

Every application for a building permit shall be deemed to be an application for a use and occupancy permit. Every application for a use and occupancy permit for a new

use of land where no building permit is required shall be made directly to the building inspector.

E. Issuance of Use and Occupancy Permit

The following shall apply in the issuance of any use and occupancy permit.

1. Permits Not to be Issued

No use and occupancy permit shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with the provisions of this ordinance.

2. Use and Occupancy Permits for Existing Buildings

Use and occupancy permits may be issued for existing buildings, structures or parts thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures or part thereof, or such use of land, are in conformity with the provisions of this ordinance.

3. Temporary Use and Occupancy Permits

Nothing in this ordinance shall prevent the issuance of a temporary use and occupancy permits for a portion of a building or structure in process of erection or alteration, provided that such temporary permit shall not be effective for time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.

4. Permits for Dwelling Accessory Buildings

Buildings accessory to dwellings shall not require separate use and occupancy permits but may be included in the use and occupancy permits for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

F. Records of Use and Occupancy Permits

A record of all use and occupancy permits issued shall be kept on file in the Office of the Building Inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

G. Final Inspection

No use and occupancy permit for a building, structure or an addition thereto, constructed after the effective date of this ordinance, shall be issued until construction has been completed and the premises inspected and certified by the building inspector to be in conformity with the plans and specifications upon which the building permit was based and with the applicable performance standards.

9.04 BOARD OF ZONING APPEALS

A. Termination of Existing Boards

The functioning of the existing Board of Zoning Appeals shall terminate upon appointment of the Board of Zoning Appeals as authorized under this ordinance and as provided by Section 13-7-205 Tennessee Code Annotated.

B. Creation of Appointment

A Board of Zoning Appeals is hereby established in accordance with Section 13-7-205, Tennessee Code Annotated. The Board of Zoning Appeals shall consist of five

(5) members, not more than two (2) of who shall be members of the Brownsville Municipal Planning Commission. They shall be appointed by the Chief Executive Officer of the City of Brownsville. The terms of membership shall be five (5) years, except that the terms of four of the members first appointed shall be one (1), two (2), three (3) and four (4) years respectively. Vacancies shall be filled for an unexpired term by appointment by the Chief Executive Officer and confirmed by the City Board.

All members of the Board shall serve with such compensation as may be fixed by the City Board and may be removed from membership by a majority vote of the City Board for continued absence or just cause. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision.

C. Powers of the Board

The Board is hereby vested with the powers to:

- 1 Hear and decide appeals from any order, requirement, decision, or determination made by the building inspector in carrying out the enforcement of this ordinance, whereby it is alleged in writing that the building inspector is in error or has acted in an arbitrary manner;
- 2 hear and act upon application for variances in accordance with Section 9.05 of this Chapter to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reasons of unique shape, topography, or physical features of the zone lot;
- 3 Hear and decide, in accordance with the provisions of this ordinance requests for conditional use permits.
- 4 Hear and decide all matters referred to it on which it is required to act under this ordinance;
- 5 Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

6 Interpretation

D. Election of Officers

The board shall elect from its members its own chairman and vice-chairman, and secretary who shall serve for 1 year and may upon election serve succeeding terms.

E. Conflict of Interest

Any member of the Board who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board of connection therewith. The burden of revealing any such conflict rests with individual members of the board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board.

F. Meetings of the Board

Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.

G. Rules and Proceedings of the Board

The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- 1 The presence of three members shall constitute a quorum and the concurring vote of at least three members of the Board shall be necessary to deny or grant any application before the Board.
- 2 No action shall be taken by the board on any case until after adequate public notice and public hearing.^{xxvii}
- 3 The board may call upon any other office or agency of the city government of information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required;
- 4 The Brownsville Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing;
- 5 Any officer, agency or department of the city of Brownsville or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by state law:
- 6 In any decision made by the Board on a variance, the Board shall:
 - a. Indicate the specific section of this ordinance under which the variance is being considered, and shall state its finding beyond such generalities as "in the interest of public health, safety and general welfare";
 - b. In cases pertaining to hardship, specifically identify the hardship warranting such action by the Board;
7. Any decision made by Board on a conditional use permit shall indicate the specific section of this ordinance under which the permit is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety, and general welfare," and shall state clearly the specific conditions imposed in granting such permit;
8. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeal may be advanced for hearing in order of the Board, good and sufficient cause being shown;
9. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

H. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board 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. The such instance, the proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a

court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

I. Right to Entry Upon Land

The Board, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this ordinance.

9.05 ZONING VARIANCES

The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this chapter.

A. Application for Variances, Notice of Hearing, Fee

A written application for a variance shall be filed with the Board by the property owner or his designated agent on forms provided by the Board and the application shall contain information and exhibits as may be required under 9.03 (B). No more than 60 days after the filing of the application, the request shall be considered by the Board, unless otherwise withdrawn or postponed by written request by the applicant. A fee of \$25.00 payable to the City of Brownsville 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.

B. Notice to Affected Property Owners

Notice to affected property owners and to the general public shall be given in conformance with the procedure set out in 9.04(G) (2) of this ordinance.

C. Standards for Variances

The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- 1 The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out;
- 2 The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
- 3 The variance will not authorize activities in a zone district other than those permitted by this ordinance;
- 4 Financial returns only shall not be considered as a basis for granting a variance;
- 5 The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance.
- 6 That granting the variance requested will not confer on this applicant any special privilege that is denied by this ordinance to other lands, structures, or building in the same district;
- 7 The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;

- 8 The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
- 9 The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

D. Non-Conformity Does Not Constitute Grounds for Granting of a Variance

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

E. Prohibition of Use Variances

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

F. Conditions and Restrictions by the Board

The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in 9.05(C) to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this ordinance.

G. Board Has Power of Administrative Official on Appeals; Reversing Decision of Administrative Official

In exercising its powers, the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative official from whom the appeal is taken.

H. Variance Appeals

Any person including any agency of the city government aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction, the judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final and subject to review only for illegality or want of jurisdiction.

9.06 **CONDITIONAL USE PERMITS**

A. Conditional Uses

The Board of Zoning Appeals may here and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code Annotated.

B. Application for conditional Use Permit, Notice of Public Hearing

The application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the Board on forms provided by the board, and shall contain information and exhibits as may be required under 11.03 (B) or in the case of buildings or other structures or uses to be located within flood plain districts, as may be required by 6.02 (C). Not more than 60 days after filing such applications, a hearing shall be held in accordance with 9.04 (G) (2). A fee of \$25.00 payable to the City of Brownsville shall be charged to partially defray cost of review and processing for each application for a conditional use permit, except that the fee shall be waived for any governmental agency.

C. Requirements for Conditional Use Permit

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The Board may impose such other conditions and restrictions upon the premises benefited by a conditional use permitted as may be necessary to comply with the provisions set out in 9.06 (D) through 9.06 (G) in order to reduce or minimize the injurious effect of such conditional use upon and insure compatibility with surrounding property and to better carry out the general intent of this ordinance. The Board may establish expiration of any conditional use permit as a condition of approval.

D. General Requirements

A conditional use permit shall be granted provided the Board finds that it:

- 1 Is so designed, located, and proposed to be operated so that the public health, safety and welfare will be protected;
- 2 Will not adversely affect other property in the area in which it is located;
- 3 Is within the provisions of "Conditional Uses" as set forth in this ordinance; and
- 4 Conforms to all applicable provisions of this ordinance for the district in which it is to be located and is necessary for public convenience in that location.

E. Specific Standards for Community Facility Activities

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit shall be granted for the community facility activities specified in 11.06 (3) (1) through 11.06 (E) (7) when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

1. Special Conditions for Day Care Centers, Group Day Care Homes

- 1 All other bulk regulations of the district shall be met.
- 2 Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up movements by vehicles to enter or exit the zone lot.
- 3 All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Public Health Department.

- 4 All regulations of the State of Tennessee and the Department of Human Services that pertain to the use shall be met.
 - 5 The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.
 - 6 Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area from such facilities.
 - 7 The site are architectural plans for such a facility shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.
2. Special Conditions for Country Clubs
- 1 No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district; provided, however, that if such use includes outdoor activities the minimum lot area shall be 4 acres.
 - 2 All bulk regulations of the zone district shall apply.
 - 3 Fencing, screening and landscaping shall be provided as appropriate for such facility, except that no landscaped screen shall be located closer than 15 feet to any vehicular entrance or exit to the property.
 - 4 The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.
 - 5 All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Public Works.
 - 6 The site and/or architectural plans shall first be approved by the Planning Commission taking into account the above conditions.
3. Special Conditions for Non-Profit Museums, Art Galleries, Libraries, Observatories
- 1 No such activities shall be permitted on a zone lot unless it contains twice the lot area requirements of the zone district.
 - 2 All bulk regulations of the zone district shall apply.
 - 3 Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area from such facilities.
 - 4 The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on properties within the surrounding area.
 - 5 The site and architectural plans shall first be approved by the Planning Commission taking into account the above conditions.
4. Special Conditions for Electrical Substations, Gas Substations, police and fire stations
- 1 The location of such facility shall be within a certain service area in order to provide the most efficient service to such area.

- 2 All of the bulk regulations of the zone district shall apply.
 - 3 The location of such facility shall not materially increase traffic on surrounding streets.
 - 4 The location of such facility shall not have an adverse effect on surrounding properties.
 - 5 There shall be provided along the entire site boundaries fencing, screening, and landscaping as appropriate to protect the surrounding residential area.
 - 6 The site plans for such facility shall first be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.
5. Special Conditions for Airports, Air cargo terminals, heliports and any other aeronautical device, major mail processing centers, military installations, public and private utility corporations or truck yards, radio and television transmission stations, railroad, bus and transit terminals, railroad yards and other transportation equipment marshaling and storage yards, stadiums, sports arenas, auditoriums and bandstands, zoological gardens, electric transmission lines, and major fuel transmission lines, cemeteries, mausoleums, colleges, junior colleges, universities, golf courses, reservoirs and water tanks, sewage disposal treatment plants and water production - treatment facilities
1. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
 2. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
 3. The proposed facility shall provide a basic community function or essential service necessary for convenient and functional living environment in order to be located on the proposed site.
 4. The site plan for such facilities shall first be approved by the Planning Commission taking into account the above conditions as well as no other pertinent factors related to the use and operation of such facilities.

F. Specific Standards for Commercial Activities

A conditional use permit shall not be granted for the commercial activities specified in 11.06 (F) (1) through 11.06 (F) (3) unless the standards established therein are met as a part of the conditions for using such permit in the applicable districts.

1. Special Conditions for Scrap Operation Activity in GI Districts

- 1 The location and topography of the site shall be situated so that fencing, screening, and landscaping can be provided as appropriate.
- 2 The scrap operation shall not include any open burning activity on the site
- 3 The bulk regulations and performance standards of this ordinance shall apply.
- 4 Insect and rodent control measures shall be provided as approved by the County Health Department.

- 5 All required fences and landscaped screens shall be maintained in a neat and attractive manner.
- 6 The operation of such facility shall not have an adverse effect on the properties in the surrounding areas.
- 7 The operation and location of such facility shall not produce damaging pollution to surrounding streams.

2. Special conditions for Drive-in Movies, Amusement Parks, Fairgrounds, and Golf Driving Ranges

- 1 The location, size and design of such facilities shall be situated so that the proposed development shall be compatible with the development within the surrounding area thus reducing the impact upon the surrounding area.
- 2 The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
- 3 The site plan for such facilities shall first be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facilities.

G. Specific Standards for Mining and Quarrying Activities

A conditional use permit shall not be granted for the mining activity specified in 11.06 (G) (1) unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

1. Special Conditions for Mining and Quarrying Activity

- a. The location of such an activity shall be in an area sparsely developed during the length of time the mining or quarrying activity is anticipated.
- b. Any permit issued hereunder shall be based on a site plan or other documents submitted with an application that shall provide for the following:
 - (1) Existing contours of the site and up to 100 feet beyond the site boundary. Contour intervals shall be at 2-foot intervals.
 - (2) Location of the area in which the proposed quarrying activity is to be conducted.
 - (3) Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.
 - (4) Proposed method of drainage of the quarry area.
 - (5) Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.
 - (6) Methods proposed for blasting. Open blasting commonly referred to as "pop shots" shall be prohibited.
 - (7) Methods proposed to control noise, vibration and other particulate matter in order to meet the performance standards as set out in this ordinance.

- (8) Finished contours of the site after the quarrying operation has been terminated. The site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding lands. All fill materials shall be non-toxic, non-flammable, and non-combustible solids. All areas that are back-filled shall be left so that adequate drainage is provided.
- c. Approval for mining and quarrying activities may also include accessory concrete batching plants, asphaltic cement mixing plants and/or rock crushing activities on the same zone lot or adjoining zone lots which may have directly opposing frontage on the same public street. If such accessory activities are included on the quarry site, the total site must meet all the special condition requirements for mining and quarrying activities; however, in conditions of multiple zone lots, the outer perimeter of the site shall be considered the lot line.
 - d. Before issuing a permit the Board shall require the owner of the quarry facility to execute a bond not less than six hundred (\$600) or more than one thousand dollars (\$1,000) per acre of active quarry throughout a five year period to restore the lands in the manner prescribed herein, including the removal of all structures and machinery.
 - e. Any permit issued herein under shall not be for a period exceeding five years. After the expiration date of such special permit, the board may review and grant an extension of time in the manner and procedure as prescribed for any original application, and
 - f. The site plan is first approved by the Planning Commission taking into account the above conditions as well as no other factors related to the use and operation of such facilities.

9.07 AMENDMENTS

A. General

The City Board may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity convenience and general welfare require such amendment.

B. Initiation of Amendment

Amendments shall only be initiated by the City Board, the Planning Commission, or by the application of owners of property affected by the proposed amendment.

C. Application for Amendment - Fee

An application by an individual for any amendment shall be accompanied by a fee of five hundred dollars (\$500.00) payable to the City of Brownsville, and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area and that public

necessity, convenience, and general welfare require the adoption of the proposed amendment. Specifically, the application shall contain the following information:

- 1 Name, address and telephone number of applicant;
- 2 If different from the applicant, the name, address and telephone number of the owner or other person having a contractual interest in the property for which a zoning district amendment is requested.
- 3 A plot plan drawn to a scale of 1:100 and legal description of each parcel of property proposed to be reclassified;
- 4 A vicinity map drawn to a scale of 1:200 showing the subject property and all other parcels within 500 feet of the lot edges, such vicinity map shall indicate the owner's name and dimensions of each parcel shown.
- 5 A list of the names and addresses of the owners of each parcel of property shown on the vicinity map;
- 6 Present zoning classification and use of each parcel of property for which a zoning amendment is requested;
- 7 If an amendment to the zoning map is requested, the zoning classification requested for each parcel which is the subject of the application;
- 8 If an amendment to the text of the Zoning Ordinance is requested, the language of the proposed text amendment and a statement of the reason for the requested amendment;

D. Review and Recommendation by the Planning Commission

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

E. Grounds for an Amendment

The Planning Commission in its review and recommendation and the City Board in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall not the same in the official record as follows:

- 1 The amendment is in agreement with the general plan for the area;
- 2 It has been determined that the legal purposes for which zoning exists are no contravened;
- 3 It has been determined that there will not be adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare;
- 4 It has been determined that no one property owner or shall group of property owners will benefit materially from the change to the detriment of the general public;
- 5 If property or properties have been rezoned based upon the petition of a developer or group of developers under the guise of a concept / schematic plan and a Preliminary Subdivision Plat / Plan has not been submitted to the Planning Commission within a period of six (6) months, the planning staff shall be directed to draft an amendment ordinance which proposes the subject property or

properties to be rezoned to its/their original zoning designation. If the subject property or properties were annexed based upon the guise of a concept plan /schematic plan, and a Preliminary Plat / Plan has not been submitted to the Planning Commission within a period of six (6) months, the planning staff shall be directed to draft an amendment ordinance that proposes the subject property or properties be rezoned to R-1 (Low Density Residential).

If property or properties were rezoned based upon a Preliminary Subdivision Plat / Plan and not developed or improved within a period of three (3) years, the planning staff shall be directed to draft an amendment ordinance that proposes to rezone the subject property or properties to its/their original zoning designation. If the subject property or properties were annexed, in addition to a Preliminary Subdivision Plat / Plan being approved by the Planning Commission, and are not developed or improved within a period of three (3) years, the planning staff shall be directed to draft an amendment ordinance that proposes the subject property or properties be rezoned to R-1 (Low Density Residential).

F. Public Hearing and Notice of Hearing

A public hearing shall be held on all proposed amendments to this ordinance prior to the final reading by the City Board Notice of such hearing shall be displayed as follows:

1. The City Clerk shall give notice in a newspaper of general circulation, the City website and or other media at least twenty-one (21) calendar days in accordance with Tennessee Code Annotated, Section 13-7-203, but no more than thirty (30) days prior to the public hearing. The notice shall specify the location, current and proposed zoning classification and it may contain a graphic illustration of the area.
2. At least five (5) days prior to the public hearing before the City of Board the affected property owners and all adjoining property owners, including those separated by a public way shall be notified by the City Recorder by mail of the proposed amendment, and the time, date and place of public hearing.

G. Amendments Affecting Zoning Map

Upon enactment of an amendment to the zoning map that is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

H. Effect of Denial of Application

Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one year following such denial, except in the following cases:

- 1 Upon initiation by the City Board, or Planning Commission;
- 2 When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;

- 3 When the previous application was denied for the reason that the proposed zoning would not conform to the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

9.08 REMEDIES AND ENFORCEMENT

A. Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Inspector. The Building Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided in this ordinance.

B. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirement (including violations of conditions and safeguards established in connection with grants of variances, site plan review, or conditional uses) shall constitute a misdemeanor and shall be punished as provided for by law. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offence and suffer the penalties herein provided.

C. Remedies

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building or other structure or land is or is proposed to be used in violation of this ordinance, the Building Inspector or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the building inspector may, in addition to other remedies, notify all public utilities and municipal services departments of such violation and request that initial or re-establishment of or other structure or premises are no longer in violation of these regulations, and each such utility or department shall comply with such request.

9.09 Legal status provisions

A. Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the City of Brownsville, the most restrictive shall in all cases apply.

B. Validity. If any section, clause, provision or portion of this chapter 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 chapter which is not of itself invalid or unconstitutional.

- C. Effective date. This chapter shall take effect and be in force immediately after its passage, the public welfare demanding it.

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CHAPTER 10: LANDSCAPING SITE DEVELOPMENT STANDARDS

10.01 STATEMENT OF PURPOSE

A. General Purpose

The purposes of this ordinance are to promote the health, safety, and public welfare in the City of Brownsville, and be consistent with forestry policy and practice for municipal areas promulgated by the Division of Forestry of the State of Tennessee: (1) To encourage the planting of trees and landscaping in the City of Brownsville, (2) To encourage the maintenance and protection of existing trees, and, (3) To encourage the removal of undesirable or diseased trees.

B. Standards

The standards herein are hereby established in order to lessen air pollution, to promote clean air quality by increasing dust filtration, to reduce noise, heat, and glare, to prevent soil erosion, to improve surface drainage and minimize flooding, to ensure that activities in one area do not adversely affect activities within adjacent areas, to emphasize the importance of trees as a visual screen, to beautify and enhance improved and undeveloped land, to maintain the ambiance of the City, to ensure that tree planting and removal does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters.

10.02 DEFINITIONS

AAN - American Association of Nurseryman upon which the quality and measurement of plant materials for this ordinance shall be based.

Caliper Inches – For trees larger than four inches (4"), the quantity in inches of the diameter of a tree measured one foot above the ground. For trees up to and including four inches (4"), the quantity in inches of the diameter of the tree measured six inches (6") above the ground.

Canopy or Shade Tree – Any deciduous tree maturing at a height of at least thirty (30) feet or greater that would occupy the upper canopy of a forest.

Conifer Tree - Any tree with needle leaves and a woody cone fruit.

Deciduous Tree - Any tree which sheds its leaves in the fall or winter.

Drip Line - A vertical line extending from the outermost portion of a tree to the ground.

Endangered Species - Those trees which are under the protection of State and/or Federal law.

Evergreen - Those trees, including broad-leaf and conifer trees that maintain their leaves year round.

Landscape Surface Area - The area of the site not devoted to paving or buildings. Fountains and retention facilities shall be counted as part of the landscape area.

Line Clearance - Removal of limbs and branches within a set distance of utility lines.

Private Tree - Any tree in an area owned by a private individual, business, company, industry, or institution, or in any area not owned by a governmental entity.

Pruning - Selective removal of the upper portions of any tree, taking into account the natural shape and structure of the tree.

Public Tree - Any tree in an area owned by a governmental entity.

Replacement Tree - Any tree being planted on a site to replace a tree that has been removed or destroyed for any reason.

Street Tree - Any tree within a public right-of-way along a road, street, median, or in a similar area in which the public right-of-way borders areas owned by private citizens.

Supplemental Tree - Any tree being planted on a site which is in addition to existing trees and replacement trees.

Topping - The non-selective removal of the top portions of any tree without regard to the natural shape and structure of the tree.

Tree - Any living, self-supporting woody or fibrous plant that is a conifer, evergreen, deciduous, or ornamental, as defined herein.

Understory Tree - Any deciduous tree maturing at a height of less than thirty (30) feet that would occupy the understory of a forest.

10.03 TREE PLANTING

A. Public Tree Planting

Tree planting shall be undertaken by the city in all public areas in a systematic manner to assure diversity of age, classes, and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the "Tree Commission".

B. Private Tree Planting

Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest.

C. Planning Commission Requirements

1. The Planning Commission shall in the normal course of its approval process, require the planting of public trees or private trees to replace trees which have been removed, destroyed, or severely damaged during the courses of development or construction, except that in no case shall replacement trees be required in excess of the minimum established in this ordinance.
2. The Planning Commission shall in the normal course of its approval process, require the planting of public trees or private trees to supplement the trees on any site proposed for development, except that in no case shall supplemental trees be required in excess of this ordinance.

10.04 TREE PROTECTION

A. Public Trees

It shall be unlawful for any person to remove or cause to be removed any public tree or other wood plant, whether such plants are trees as defined herein, or smaller flora which are part of the understory, shrub layer, or herb layer, of any size or of any

species without first obtaining the permission of the Planning Commission or its designee.

10.05 LANDSCAPE PLAN

A. Requirement

A Landscape Plan shall be required for all new development projects requiring a site plan or preliminary/final subdivision approval.

B. Approval

An approved Landscape Plan as defined in this Chapter shall be required for the entire premises, prior to issue of development permits.

10.06 ADMINISTRATION AND ENFORCEMENT

A. Standards

A Landscape Plan that complies with the minimum standards set forth in this Chapter shall be submitted to the Planning Commission and Building Inspector, as appropriate, along with the proposed property development plans.

B. Review Time

The Landscape Plan shall be reviewed and approved or disapproved within thirty (30) days from submission to the Planning Commission. If disapproved, the reason(s) for such action shall be transmitted to the applicant in writing. Corrections shall be made re-submitted for review at the next scheduled Planning Commission.

C. Appeal

Any person aggrieved by a decision of the Building Inspector in the enforcement of the requirements of this Chapter may appeal the decision to the Board of Zoning Appeals. The requirements of site development plans approved by the Planning Commission cannot be appealed.

D. Permitting

A Landscape Plan is required for a Building Permit. The landscaping must be installed completely and approved by the Planning Commission prior to issuance of a Certificate of Occupancy by the Building Inspector.

10.07 MAINTENANCE

A. Private Property

The owner of private property shall be responsible for the maintenance, repair, and replacement of all landscaping materials required by this Chapter.

B. Time Period

All plant material shall be tended and maintained in a healthy growing condition, replaced when dead, and kept free of weeds, refuse, and debris for two (2) years. A citation will be issued when necessary to advise the owner that corrective action is necessary, and how many days will be allowed for this work to occur.

C. Public Property

The Public Works Department shall be responsible for pruning, watering, fertilizing, insect and disease control, and other tree care to keep all public trees reasonably healthy and to minimize the risk of hazard to residents and visitors to the city.

D. Encouragement

Care and maintenance of private trees are encouraged to minimize health and safety risks to people.

E. Right of Way

The Public Works Department may remove, prune, fertilize, water, or otherwise treat with insecticides, fungicides, herbicides, or other means, any private tree which overhangs any public right-of-way, comes in contact with overhead utility lines, creates any traffic hazard by restricting visibility, or poses a health risk to other plants, animals, or person by disease of insect infestation.

F. Proper Pruning

Proper pruning with branch removal at branch or trunk junctures is required for all public trees, and strongly encouraged for all private trees.

10.08 LANDSCAPE PLAN AND PLANTING REQUIREMENTS

A. Scale

The Landscape Plan shall be drawn to a scale of no less than 1"=50' and may be a part of the Grading Plan, Site Plan, or on a separate drawing labeled Landscape Plan.

B. Plant List

All existing and proposed landscape materials shall be labeled as to size, quantity, and name on the Landscape Plan.

D. Existing Trees

All existing trees 8" caliper and greater shall be denoted on the Grading Plan or Site Plan. Trees to be removed shall be clearly labeled.

E. Tree Preservation Credit

Total credit shall be given for trees preserved during the development and construction process.

F. Replacement of Preserved Trees

Trees marked for preservation and damaged or destroyed during construction, or that die subsequently during the first 24 months, shall be replaced with an equivalent caliper inches of trees.

G. Landscape Integration

Landscaping shall be integrated into building arrangements, topography, parking, and buffering requirements. Landscaping shall include trees, shrubs, ground cover, and the use of building and paving materials in a manner that respects the natural topographic features and natural resources of the site.

H. Utility Avoidance

1. Trees shall not be planted within 5 feet of underground utilities. Street or canopy trees shall not be planted within 10 feet of the alignment of overhead utility lines.
2. Trees shall not be planted closer than 10 feet to a fire hydrant, utility pole, or street light.

I. Visibility

A "clear site triangle" shall be maintained at the intersections of driveways and streets and where streets intersect (see Section 1.05 B).

1. The only planting allowed within the "clear site triangle" is grass, ground cover, or shrubs maintained at 30 inches or less. No trees shall be allowed within the triangle. Foliage from adjacent trees should be cleared and maintained to a height of 6 feet above the ground surface to insure visibility.
2. Where a driveway intersects a street, the triangle shall be measured 10 feet each way from the point of intersection at the right-of-way.
3. Where a street intersects a street, the triangle shall be measured 35 feet back from the point of intersection of the roadways. A driver should have a clear sight area along the intersecting road from the corner for 250 feet.

10.09 PLANT MATERIALS STANDARDS

A. Required Size

Minimum plant sizes shall be the following:

1. Deciduous canopy trees shall be a minimum of 2" caliper,
2. Understory trees shall be a minimum of 1½" caliper,
3. Evergreen trees shall be a minimum of 5 feet height,
4. Shrubs shall be a minimum of 18 inches in height.

10.10 TREE PRESERVATION

A. Developer Responsibility

The developer should make an effort to preserve significant trees of 8" caliper or greater. This may include modifications to the site or building plan, which may be requested by the Planning Commission.

B. Variance

In order to preserve significant trees, a variance may be given to or requested by a developer to aid in site or building plan changes. This shall occur through the Planning Commission.

C. Health

Preserved trees shall be sound and healthy and should not exhibit advanced stages of decay or disease, severe damage to major branches or trunks, broken limbs, lost leaders, topping, or poor pruning.

D. Tree Protection

Tree protection shall be provided for trees in good condition worthy of preservation. Tree protection during construction shall consist of posts, fencing, and flags. There shall be no dumping or storage of construction materials, parking, or change of grade in the tree protection zone. The tree protection zone shall be:

1. The drip line for trees with a drip line radius of 20 feet or less;
2. Trees with a drip line of 20 feet or more shall have a minimum tree protection zone of 20 feet or more as determined by the Planning Commission.

10.11 LANDSCAPING REGULATIONS FOR MULTI-FAMILY (WITH MORE THAN 3 UNITS), COMMERCIAL AND INDUSTRIAL SITES

A. Landscaping Requirements:

- Each acre of landscape surface area (rounded to the nearest whole number) not presently forested shall be landscaped as follows:

<u>Min. Number of Trees/Shrubs</u>	<u>Minimum Size</u>
12 trees	2 inch caliper
25 shrubs	18 inches high

- In Commercial and Industrial Districts with a proposed building of 10,000 square feet or more, each acre of landscape surface area (rounded to the nearest whole number) not presently forested shall be landscaped as follows:

<u>Min. Number of Trees/Shrubs</u>	<u>Minimum Size</u>
8 trees	2 inch caliper
20 shrubs	18 inches high

- Credit shall be given toward required trees for trees 2" caliper or larger preserved during construction. For example, a 6" tree shall count as three 2" trees. See the following example.

EXAMPLE: SITE DEVELOPMENT

Site Acreage	6.1
Trees Required	6 x 12 = 72 trees or, 72 x 2" = 144 caliper inches (CI)
Shrubs Required	6 x 25 = 150 shrubs
Trees Preserved	3 trees x 2" = 6 caliper inches
	2 trees x 6" = <u>+12</u> caliper inches
TOTAL CI Preserved	= 18 caliper inches
Trees Required	144" CI
Trees Preserved	<u>-18"</u>
Actual Trees Required	126" CI
Actual Trees Required	<u>126"</u> = 63 trees
2" (minimum tree size)	
(NOTE: CI = caliper inches)	

B. Landscape Zones

- All site boundaries fronting onto streets shall have a Landscape Zone consisting of an unpaved area planted in grass or mulched with bark. The area shall be landscaped with trees (and shrubs if the developer so desires). The zone shall be a minimum of 10 feet wide facing two lane streets and 20 feet wide facing four lane streets. This shall be behind the property line between right-of-way and any paving. No parking or structures (except signs) will be allowed in the Landscape Zone. At least one tree for every 30 linear feet or portion thereof shall be planted in the landscaped strip; however, this shall not be construed as requiring the planting of trees on thirty (30) foot centers.
- The preferred trees for Landscape Zones facing streets are canopy or shade trees. In the event overhead, underground utilities or other conditions are present, understory trees may be planted.

3. All site boundaries facing adjacent properties shall have an unpaved Landscape Zone. At least one tree for every 30 linear feet or portion thereof shall be planted in the landscaped strip. A minimum zone five (5') wide shall be provided for parcels less than two (2) acres; a minimum zone to (10') wide shall be provided for parcels two (2) acres or more. The Landscape Zone shall be increased if there is a larger buffer required because of a zoning or land use difference between properties.
4. The preferred trees for Landscape Zones facing adjacent properties are canopy or shade trees and evergreen trees. In the event overhead or underground utilities are present, 1½" caliper understory trees may be planted.
5. In the event the proper number of trees cannot be planted in the Landscape Zones because of utilities or site development problems, the trees shall be placed elsewhere on the property.

C. Parking Lot Landscaping

1. Landscaped parking islands shall be provided at the end of all rows of parking.
2. Parking islands shall be covered with 2-3" shredded bark or turf. Paving or covering islands with rock shall not be acceptable. Landscape parking islands shall have a minimum of 18" deep topsoil and built with a minimum interior width of 5 feet.
3. One (1) canopy tree per eighteen (18) linear feet of island shall be required. Other landscape materials and understory trees may compliment the island plantings. Where utilities present a problem, understory trees may be substituted for the canopy trees.

D. Screening

1. A 6- foot height screen shall be planted and/or fence shall be erected between parcels of land with different uses such as commercial and residential, and to screen unsightly elements such as dumpsters, air conditioner units, or storage areas. A landscape screen shall consist of a minimum of 6 foot height evergreen shrubs or trees planted a maximum of 8 feet on center.
2. Additional screening may be requested at the discretion of the Planning Commission or request of Planning Staff.

10.12 TREE LIST

Recommended Tree List: These trees are allowed as new plantings

Ash	Linden
Beech	Locust (improved varieties)
Crape Myrtle	Magnolia
Flowering Crabapple	Maple
Ginkgo (male only)	Oak
Pine	Spruce
Goldenrain Tree	Sweetgum (improved variety)
Hemlock	Redbud
Holly	Tulip Poplar
Hornbeam	Zelkova

Leyland Cypress

Undesirable Tree List: These trees shall not be allowed as new plantings. However, if they are existing trees in good condition, they may remain as a part of the Landscape Plan.

Black Locust

Siberian Elm

Black Walnut

Silver Maple

Cottonwood

Weeping Willow

Osage Orange (Bodak or Horse Apple)

White Birch

Poplar (Lombardy)

10.13 ANDERSON AVENUE 76 (STATE ROUTE 76) GATEWAY CORRIDOR OVERLAY DISTRICT PROVISIONS

A. Purpose and Intent

The Anderson 76 Gateway Corridor Overlay District Provisions are overlay provisions that will add an extra layer of regulations upon the existing zoning district provisions in which the district will encompass. The purpose of these regulations is to provide aesthetic standards regarding new developments along the Anderson Avenue / State Route 76 corridor. These provisions are intended to beautify the gateway corridor with aesthetically pleasing vegetative landscaping and planting adjacent to the existing right-of-way. Additionally, the intent is to provide smooth and safe traffic flow by limiting the number of points of access. This will be accomplished by mandating shared-use driveways along the corridor in addition to rear access roads for connectivity purposes where feasible. The area is defined as Anderson Avenue / State Route 76 corridor from its intersection with the Gray Rawls / State Route 19 Bypass and Interstate 40.

B. Landscaping Provisions

1. Landscape Zones

A. All site boundaries fronting onto streets shall have a Landscape Zone consisting of an unpaved area planted in grass or mulched with bark. The area shall be landscaped with shrubs. The zone shall be a minimum of 20 feet wide facing the Anderson Avenue / State Route 76 Corridor. This shall be behind the property line between right-of-way and any paving. No parking or structures (except signs) will be allowed in the Landscape Zone. Monument signs shall be permitted only within the Landscape Zone. At least one shrub for every 10 linear feet or portion thereof shall be planted in the landscaped strip; however, this shall not be construed as requiring the planting of shrubs on ten (10) foot centers.

B. All site boundaries facing adjacent properties shall have an unpaved Landscape Zone. At least one shrub for every 10 linear feet or portion thereof shall be planted in the landscaped strip. A

minimum zone five (5') wide shall be provided for parcels less than two (2) acres; a minimum zone to (10') wide shall be provided for parcels two (2) acres or more. The Landscape Zone shall be increased if there is a larger buffer required because of a zoning or land use difference between properties.

C. In the event the proper number of shrubs cannot be planted in the Landscape Zones because of utilities or site development problems, the shrubs shall be placed elsewhere on the property.

2. Utility Avoidance

A. Shrubs shall not be planted within five (5) feet of underground utilities. Street shrubs shall not be planted within ten (10) feet of the alignment of overhead utility lines.

B. Shrubs shall not be planted closer than ten (10) feet to a fire hydrant, utility pole, or street light.

3. Visibility

A "clear site triangle" shall be maintained at the intersections of driveways and streets and where streets intersect (see Section 1.05 B).

A. The only planting allowed within the "clear site triangle" is grass, ground cover, or shrubs maintained at 30 inches or less. No trees shall be allowed within the triangle. Foliage from adjacent trees should be cleared and maintained to a height of six (6) feet above the ground surface to ensure visibility.

B. Where a driveway intersects a street, the triangle shall be measured ten (10) feet each way from the point of intersection at the right-of-way.

C. Where a street intersects a street, the triangle shall be measured 35 feet back from the point of intersection of the roadways. A driver should have a clear sight area along the intersecting road from the corner for 250 feet.

C. Signs

Monument signs shall be permitted only within the Anderson 76 (State Route 76) Gateway Corridor Overlay District.

D. Access Management

1. Conceptual Access Management Plan



2. Access Management Provisions

Shared points of access shall be required for all commercial and industrial properties within the Anderson Avenue 76 Gateway Corridor Overlay District when and where feasible in order to limit the number of driveways and to provide smooth traffic flow. In commercially and industrially zoned areas, rear access roads may be required.

CHAPTER 11: PROVISIONS GOVERNING SIGNS^{xxviii}

11.01 STATEMENT OF PURPOSE

The regulations set forth herein are established in order to promote and protect public health, safety, comfort, prosperity, welfare, and in order to accomplish the following specific purposes: to enhance the economy, business, and industry of Brownsville by promoting the reasonable, orderly, and effective use and display of signs; to enhance the physical appearance of the city; to protect the general public from damage and injury which might be caused by the faulty and uncontrolled construction and use of signs within the city; to protect the public use of streets and highways by reducing sign or advertising distractions that may increase traffic accidents; to project the physical and mental well being of the general public by recognizing and encouraging a sense of aesthetic appreciation for the visual environment; and to preserve the value of private property by assuring the compatibility of signs with surrounding land uses.

11.02 DEFINITIONS

Abandoned/Obsolete Sign - any sign which identifies or advertises a business, lessor, service, owner, product, or activity, which is no longer available at the indicated location or no longer available on the premises or for which no legal owner can be found.

Animated sign - A sign that uses movement or change of light to depict or to create a special effect or scene (does not include time, temperature or message signs).

Attached Business Sign - Any sign which is affixed directly to or otherwise inscribed or painted on a wall or parapet wall of any building or structure with the exposed face of the sign in a plane approximately parallel to the plane of such wall and extending there from less than twelve (12) inches.

Awning/Canopy Sign - A sign painted on, printed on, or attached flat against the surface of an awning or canopy projecting from and supported by the exterior wall of a building.

Banner Sign - A sign made of fabric or other non-rigid materials with no enclosing framework. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Building Inspector - The city official or authorized representative charged with the responsibilities of enforcing the chapter.

Business Identification Sign - A freestanding sign identifying a recognized firm, business, or service.

Canopy - An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

Central Business District - The area contained within the CB (Central Business) zone as identified on the Official Zoning Map of Brownsville, Tennessee.

Construction Sign - A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Directional/Informational Sign - Any on-premise sign giving directions, instructions, or facility information, e.g., parking or exit and entrance signs, and which may contain the name or logo of an establishment but no other advertising copy.

Flashing Sign - Any directly or indirectly illuminated sign that contains an intermittent flashing light source. (This does not include message center or time/temperature signs.)

Freestanding Sign - Any sign supported by uprights or braces placed on or in the ground and not attached to any building.

Ground Sign - Any sign supported by the ground with little or no vertical clearance.

Height (of a sign) - The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Illegal Sign - Any sign and/or advertising structure erected without a permit required by this Ordinance, or in violation of any of the limitations, prohibitions or requirements of this Ordinance.

Maintenance - For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Mall Grouping Signs - Signs on one pole identifying a group of stores, businesses, or professional offices located in one development. These include office center signs and shopping center signs.

Message Board - A sign with changeable, removable letters to allow the user to replace or update the copy on the sign.

Nonconforming Sign - (a) Any sign which was erected legally but which does not comply with subsequently enacted sign regulations and restrictions; (b) A sign which does not conform to the Sign Code requirements but for which a variance has been issued. These signs are grandfathered provided they do not violate the provisions of Chapter 8.

Off Premise Sign - A sign not located on the property that it advertises.

Office Center - Two or more offices having a common parking lot.

Owner - The fee owner of a sign, the lessee of the sign, the fee holder of the property upon which the sign is located, the leaseholder of such property or the individual, person or business who has purchased the copy on a sign.

Political Sign - A sign displaying the name and/or picture of an individual seeking election to a public office or a sign otherwise relating to a forthcoming public election or referendum.

Portable Sign - Any sign which by its construction or nature may be or is intended to be freely moved from one location to another. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category; neither does the anchoring of the sign by means of concrete blocks, sandbags or other types of temporary anchors. Portable signs include, but are not limited to, signs designed to be transported by means

of wheels; signs converted to A- or T-Frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising.

Projecting Sign - Any sign, other than a flat wall sign, which is attached to and projects more than 12" from a building wall or other structure not specifically designed to support the sign.

Public Sign - Any temporary or permanent sign erected and maintained by the City, County, State or Federal Government for traffic direction or for the designation of or direction to any school, hospital, historical site, or public service, property or facility.

Real Estate Sign - Any temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

Residential Districts - Any parcel in the City of Brownsville zoned R-1, R-1A, R-2, R-2A, R-3, R-TH, MH or PRD.

Roof Sign - Any sign erected, constructed or maintained wholly or partially upon or over the roof line of any building with the principal structural support on the roof or building structure.

Shopping Center - Two or more businesses sharing a common parking lot. This shall include indoor and outdoor malls.

Sign - Any object, device, graphic design or part thereof, situated outdoors or indoors and which object, device, graphic design or the effect produced is used to advertise, announce, identify, declare, demonstrate, display, instruct, direct or attract attention by any means including words, letters, figures, designs, fixtures, colors, motion, illumination, sound and projecting images. Any sign requiring a permit is considered to be a structure.

Sign Area - (a) Freestanding, Roof and Projecting Signs: The area enclosed by one continuous line, connecting the extreme points or edges of the sign. The area shall be determined using the largest sign area or silhouette, but excluding the necessary supports or uprights. Two-sided signs constructed back to back shall use the square footage of one side only for compliance. Three-sided signs with no more than 60 degrees between the faces shall be figured using one face only. (b) Attached Business, Awning and Canopy Signs: The area including all lettering, wording, and accompanying design or symbols together with any background. For a sign composed of individual letters or figures, the area is that of the smallest rectangle or other geometric shape that encompasses all the letters or symbols.

Sign Permit - A written permit granted by the Building Inspector for the erection, construction, enlargement, relocation or conversion of any sign for which a permit is required.

Subdivision Identification Sign - A freestanding or wall sign identifying a recognized subdivision, condominium complex or residential development.

Time and Temperature Sign - Electrically controlled public service time, temperature and date signs displayed on a lamp, bank or other electronic display.

Temporary Sign - Any sign, banner, pennant, valance or advertising display or sign constructed of light fabric, cardboard, wallboard, plywood, paper or other light materials,

with or without frames, intended to be displayed for a limited period of time, i.e., garage sale, rummage, open house and similar types of signs.

User - The fee user of a sign, the lessee of the sign, the fee holder of the property upon which the sign is located, the leaseholder of such property or the individual, person or business who has purchased the copy of a sign.

11.03 PERMITS

All signs will be permitted by the Building Inspector's Office, except those that are exempt by this ordinance.^{xxix}

11.04 REGULATIONS AND STANDARDS

A. Business Identification Signs

Business identifications signs shall be allowed in MU, MU-RC1, NC, MPO, SCC, CB, GC, RI, and GI zones only. Except for the Central Business District (see 10.04 I 1 N)

1. The Identification Sign must be located on the business property. They must be five (5) feet from the right-of-way of any street. Signs under sixteen (16) feet must be ten (10) feet from any highway. Signs cannot extend over right-of-way or street. They must not interfere with traffic or pedestrian vision.
2. Only two (2) signs are allowed. The main identification sign shall be no greater than forty (40) square feet in area per side, and shall have no more than three (3) sides. Double sides are allowed in NC, MPO, SCC, and GC zones. The top sign shall be no greater than forty (40) square feet per side, and the lower sign shall be no greater than thirty- two (32) square feet. The second sign cannot exceed thirty-two (32) square feet. Monument signs shall not exceed thirty-two (32) square feet.
3. Retail businesses measuring over 25,000 square feet shall be allowed up to three (3) signs. One main sign not to exceed eighty (80) square feet and two (2) signs not to exceed thirty- two (32) square feet. The main identification sign can be double sided in NC, MPO, SCC, and GC zones. Monument signs shall not exceed thirty-two (32) square feet. Installation to be approved by the Building Inspector.
4. Business identification signs must be securely mounted and wired in accordance with City code. Permits are required from the Building Inspector. Fee for the permit is \$25.00.
5. Lots fronting on two or more streets are allowed the permitted signage for each street frontage. Signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.
6. In the Central Business Zoning District, free standing pole signs are not allowed. Monument and Mall Grouping Signs are allowed and shall comply with the regulations governing Mall Grouping Signs in D.
7. Business identification signs located from the Haywood County Courthouse Square along the southern right of way of East Main Street to North Park Avenue; and, from the eastern right-of-way of Park Avenue with its intersection with said East Main Street along both the northern and southern right-of ways to its intersection with Anderson Avenue; and, along both the northern and southern

right-of-way of West Main Street from its intersection with North and South Russell Streets to the Haywood County Courthouse Square shall be ground signs only with the following standards applying:

- a. Such signs shall not exceed 72 inches in height measured from finished grade.
- b. Such signs shall not exceed 32 square feet in sign area per side.
- c. Such signs shall be set back a minimum of 10 feet from the edge of the public street right-of-way.
- d. Such signs shall be oriented to the middle of the front property line unless in conflict with an entrance but, in no case shall be placed within 15 feet of a side property line-oriented perpendicular to the front property line.
- e. The base of the sign shall be landscaped with evergreen and deciduous shrubbery and seasonal colors on each side of the sign in an area equivalent to the total sign area of each face of the sign. All landscaping shall be irrigated.
- f. Such signs may display not more than three (3) pieces of information including the street address of the property.
- g. Both sides of the two-side ground sign shall be identical in design and content.
- h. The sign shall be placed upon a masonry base a minimum of 18 inches in height measured from finished grade.
- i. For a single-occupant property, only one (1) principal ground sign shall be permitted unless otherwise provided in this Ordinance.

B. Attached Business Signs

1. Shall be allowed in all Business, Commercial and Industrial Districts.
2. Each business is limited to two (2) attached business sign per building face. The total area of both signs shall be no greater in area than 25% of the face of the wall on which it is located.
3. An awning or canopy with the business name or related information is allowed in addition to the business sign. All such awnings or canopies shall be structurally sound and approved by the Building Inspector. The lowest portion shall not be less than eight (8) feet above the ground.

C. Off Premise Signs

1. Off Premise signs are allowed only in the Interstate Highway District (IHD) and the Off Premise Sign District (OPSD).
2. Interstate Highway District (IHD)

This zone shall overlay the underlying zone district and shall be composed of an area running parallel to and 300 feet from the right-of-way of any federal interstate highway within the corporate limits. Within this area the following shall apply.

- a. Off premise signs shall be no greater than 378 square feet in area per side and shall have no more than two (2) sides.
- b. Off premise signs may not be stacked.
- c. The maximum height of off-premise signs shall not be greater than 50 feet. The bottom of the sign must be a minimum of 10 ft. above the ground/pavement elevation.
- d. Off premise signs shall be placed a minimum of 1,000 linear feet from any other off premise sign on the same side of the highway.
- e. Off premise signs must be located a minimum of ten (10) feet from the right-of-way of any highway, street, or road and a minimum of five (5) feet from the edge of any sidewalk. In no case shall a sign be located on the public right-of-way or interfere with traffic or pedestrian vision or safety.

3. Off-Premise Sign District (OPSD)

This zone shall overlay the underlining zone district and shall be composed of an area running parallel to and 100 feet from the right-of-way of the Highway 19 / 76 Bypass (South Dupree Avenue / G. A. Rawls Bypass) from Highway 19 on the west-side of Brownsville and Highway 70 on the east-side of the City of Brownsville. Within this area the following shall apply.

- a. Off premise signs shall be no less than 180 square feet and no greater than 300 square feet in area per side and shall have no more than two (2) sides.
- b. Off premise signs may not be stacked or side by side.
- c. The maximum height of off premise signs shall not be greater than 35 feet. The bottom of the sign must be a minimum of 10 feet above the ground/payment elevation.
- d. Off premise signs shall be placed a minimum of 1,500 linear feet from any other off premise sign on the same side of the highway and a minimum of 750 linear feet from off premise signs on the opposite side of the highway.
- e. Off premise signs shall be placed a minimum of 500 linear feet from a residential structure.
- f. Off premise signs must be located a minimum of twenty (20) feet from the right-of-way of any highway, street or road and a minimum of ten (10) feet from the edge of any sidewalk. In no case shall an off-premise sign be located on the public right-of-way or interfere with traffic or pedestrian vision or safety.

4. Anderson Avenue (State Route 76) Gateway Corridor Overlay District Signs

Monument signs not to exceed thirty-two (32) square feet shall be the only permitted signs within the Anderson Avenue 76 (State Route 76) Gateway Corridor Overlay District as regulated within Section 10.13 of this Ordinance.

5. Non-profit organizations may erect off-premises directional signs, provided they do not exceed sixteen (16) square feet in area, and further provided the sign is not

located in the public right-of-way and does not interfere with traffic or pedestrian vision or safety.

6. With the exception of signs identified in (5) above, all off premise signs shall comply with the site plan review requirements of the zone in which they are intended to locate.

D. Mall Grouping Signs

1. Shopping Centers. A sign designating a shopping center and its tenants shall have a maximum area of eighty (80) square feet plus ten (10) square feet for each tenant over two, not to exceed one hundred-fifty (150) square feet. Signs designating individual businesses are not allowed, except attached business signs, however, businesses without an external entrance are allowed one (1) business identification sign.
2. Office Centers. A sign designating an office center and its tenants shall have a maximum area of eighty (80) square feet.
3. Mall grouping signs must be located a minimum of ten (10) feet from the right-of-way of any highway, street, or road and a minimum of three (3) feet from the edge of any sidewalk. In no case shall a sign be located on the public right-of-way. The sign shall in no way extend out over the right-of-way.
4. Any mixture of offices and retail establishments shall be interpreted as a shopping center if there is a majority of retail establishments and shall be interpreted as an office center if there is a majority of offices and/or professional uses.

E. Residential Signs

1. Apartment complexes, churches, and schools in residential districts may have a single identification sign not to exceed thirty-two (32) square feet. Lots fronting on two or more streets are allowed the permitted signage for each street frontage. Signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.
2. Nameplates are allowed in residential districts but must be limited to three (3) square feet.

F. Projecting Signs

Projecting signs shall not exceed twenty (20) square feet in area and shall have a minimum of nine (9) feet of clearance above the ground or sidewalk. A projecting sign must be structurally sound and approved by the Building Inspector.

G. Portable Signs

Portable signs will be allowed only for one week per calendar quarter per location. They must not utilize flashing lights. Portable signs shall not interfere with vehicular or pedestrian traffic. All portable signs must have a permit from the Building Inspector. Fee for a portable sign is \$15.00.

H. Real Estate Signs

1. Real estate signs are limited to one sign per road frontage, not to exceed thirty-two (32) square feet in area in a residential zone or forty-eight (48) square feet in a commercial or industrial zone. No real estate signs shall have a height greater than twelve (12) feet.
2. In multi-unit developments (commercial or industrial), one additional sign per unit, not to exceed ten (10) square feet in area is allowed.
3. Real estate signs must be located a minimum of five (5) feet from the right-of-way of any highway, street, or road, and a minimum of three (3) ft. from the edge of any sidewalk. In no case shall a sign be located on the public right-of-way. The sign shall in no way extend out over the right-of-way. The location must not interfere with traffic or pedestrian vision or safety.
4. Real estate signs do not require a permit.

I. Construction, Lighting, and Maintenance Standards

1. General Regulations

- a. All signs and their locations shall comply with the provisions of the City of Brownsville Municipal Zoning Ordinance, the International Building Code, the International Electrical Code, current edition, and additional standards hereinafter set forth.
- b. Signs shall not be erected, constructed or maintained so as to obstruct any fire escape, required exit way, window or door opening used as a means of egress, to prevent free passage from one part of a room to another part thereof or access thereto.
- c. Signs shall not be attached in any form, shape or manner which will interfere with any opening required for ventilation, except that such a sign may be erected in front of and may cover transom windows when not in violation of the provisions of the Building or Fire Prevention Codes.
- d. The height of the signs shall in no case exceed the height restrictions for buildings in that zoning district.
- e. In no case shall existing supports, such as utility poles or traffic control sign supports, be utilized for any sign.
- f. All signs shall maintain clearances from overhead electrical connectors as follows:
 - (1) Under six hundred (600) volt, insulated - 3 feet
 - (2) Under six hundred (600) volt, bare - 5 feet
 - (3) Six hundred one (601) volt to twenty-five hundred (2,500) volt - 5 feet
 - (4) Two thousand five hundred one (2,501) volt to nine thousand (9,000) volt - 6 feet

- (5) Nine thousand one (9,001) volt to twenty-five thousand (25,000) volt - 9 feet
 - (6) Twenty-five thousand one (25,001) volt to seventy-five (75) kV - 10 feet
 - (7) Above seventy-five (75) kV - 12 feet
- g. Signs shall not be suspended by chains or other devices that will allow the sign to swing, due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.
 - h. Supports and braces shall be an integral part of the sign design. Angle irons, channels, or wires used for supports or braces shall be hidden from public view to the extent technically feasible.
 - i. Freestanding signs shall be self-supporting structures and be permanently attached to sufficient foundations.
 - j. Attached business signs must derive their principle and total support from the building to which they are attached.
 - k. All signs shall be constructed to withstand wind loads of 30 pounds per square foot on the largest face of the sign and structure.
 - l. In no case shall the existing ground elevation be built up in order to have a taller sign.
 - m. Free hand, spray paint, stencils, and signs not conforming to excepted sign standards, as determined by the Planning Commission, will be allowed.
 - n. Signs in the central business district may have additional requirements as recommended by the Downtown Merchants Association and approved by Mayor and Board of Aldermen.
2. Electrical Standards
- a. Electrical service to on premise freestanding signs shall be concealed whenever possible.
 - b. Electrical signs shall be marked with input amperes at full load.
 - c. Each illuminated and/or electrical sign shall bear thereon a label or certification visible from the ground, from the Underwriter's Laboratories, Inc., or any other approved independent electrical inspection agency qualified to make such certification or have written approval from the local Electrical Inspector.
 - d. No artificial light, of whatever type or nature used in conjunction with or the lighting of any sign, shall be constructed as to direct or reflect any artificial light onto any structure or to constitute a hazard to the safe and efficient operation of vehicles upon a street or highway.
 - e. Flashing or rotating lights, flashing signs, flashing or moving lights on signs, and reflective pennants are prohibited, except that signs that exhibit time,

temperature, date or other similar information and search lights permitted by the Building Inspector as an attention getting device are permitted.

- f. In no case shall electrical wiring, extension cords, or any other means of power be laid on the ground or parking areas.

3. Maintenance Standards

- a. Every sign, including, but not limited to those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of such sign.
- b. The ground area around any freestanding sign shall be kept free and clean of weeds, trash and other debris.

11.05 PROHIBITED SIGNS

The following types of signs are prohibited in all zoning districts in Brownsville.

- A. Signs on public property, except for public signs in conjunction with city, state and federal government uses and temporary signs upon permission by the public authority having jurisdiction.
- B. Signs erected at the intersection of any streets or alleys in such a manner as to obstruct free and clear vision; or in any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic signs, signal or device, or which makes use of the words "STOP, LOOK, DRIVE-IN", "GO SLOW", "CAUTION", or similar wording or other symbols as to interfere with, mislead or confuse traffic. No signs shall be allowed between a height of two and one-half (2.5) feet and ten (10) feet on the front property line in order to prevent any obstruction of vision.
- C. Signs which blend with or can be confused with traffic signals.
- D. Signs which contain reflective materials which present a hazard or danger to traffic or the general public.
- E. Signs which are structurally unsound.
- F. Signs which display thereon or advertises any obscene, indecent or immoral matter.

11.06 TEMPORARY SIGNS

No temporary sign shall be allowed except as set forth herein and which is affixed to a building, pole or other structure and located on the same property and allowed under the provisions of this Chapter. Temporary signs are allowed in all zoned districts as specified below. A sign permit is required for all temporary signs except for vehicle signs, construction signs, posters, garage sale signs, and non-profit organization event signs.

- A. Street Banners - It shall be unlawful for any person to have placed across or upon any public street, alley or place a banner, electrical or floral festoon, without first obtaining a permit. Such banner or electrical or floral festoon shall be in conjunction with an official, civic, or philanthropic, festival, or parade and shall be allowed for a period not to exceed thirty-five (35) days as determined by the Building Inspector. Street banners shall be removed within seven (7) days after the event being advertised has occurred.
- B. Off-Building Advertising Banners - Shall be allowed, after obtaining a permit, for a period not to exceed fourteen (14) days per calendar quarter. They are subject to the building setback requirements of the zone in which they are located. They may be used only in Commercial and Industrial zones and may not exceed twenty-four (24) square feet in total area. On-building banners that do not require a permit, however, total signage on any face of a building must not exceed 25% of the total surface area.
- C. Posters - Shall only be authorized in conjunction with an official, civic, or philanthropic event and shall be allowed only thirty-five (35) days prior to and forty-eight (48) hours after the event.
- D. Vehicular Signs - Any vehicle carrying or having a sign painted on it shall be considered a sign regulated under this chapter. Such signs shall be prohibited unless displayed on a vehicle in operable condition carrying all current valid licenses, tags or plates as required by all governmental authorities. This may include valid dealer licenses, tags or plates. Vehicular signs cannot use public property including parking spaces for advertising purposes.
- E. Construction - Construction signs shall be allowed in all districts during the actual period of construction and shall be limited in size to sixty-four (64) square feet and a height of twelve (12) feet. The sign announcement shall be limited to the project name, sponsor or funding agent, owner, general contractor and subcontractors, architect or engineer.
- F. Signs not exceeding five (5) square feet in area noting garage sales provided it is an on-site sign. This sign shall be allowed to be erected no more than seven (7) days prior to and two (2) days after the event that it advertises.
- G. Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said sign conforms to the following regulations.
1. Said signs may be erected no earlier than ninety (90) days prior to said election and shall be removed within three (3) days following said election.
 2. No sign shall be located within or over the public right-of-way.
 3. The candidate or the candidate's organization must obtain a general sign permit covering all of the candidate's signs in Brownsville. There will be no charge for this permit.
 4. Political signs in residential districts shall be limited to sixteen (16) square feet in area and shall be limited to thirty-two (32) square feet in all other districts.

11.07 EXEMPTIONS

The following signs shall be allowed in all zoning districts of the City of Brownsville provided that the sign conforms to the regulations of this Chapter. A sign permit is not required to erect exempt signs described below.

- A. Signs not more than two (2) square feet which identify street numbers, owner names, occupant name, and professional names, as allowed herein.
- B. Official National, State or Municipal flags properly displayed.
- C. Signs, identifying merchandise, or manufacturer, offering sale if on a dispensing or vending machine, or on windows.
- D. Signs wholly within buildings or on windows.
- E. Public signs that are signs erected by, or on the order of a public officer in the performance of his public duty, such as safety signs, danger signs, legal notices and such temporary, emergency or non-advertising signs as may be approved by the Building Inspector.
- F. Historical markers as required by local, State, or Federal authorities.
- G. Signs of a primary decorative nature, clearly, incidental and customary and commonly associated with any national, local or religious holiday.
- H. No trespassing or no dumping signs.
- I. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed on bond or noncombustible material.
- J. Public signs, or signs specifically authorized for public purposes by any law, statute or chapter; which may be of any type, number, area, height above grade, location, illumination or animation, required by law, statute or chapter under which the signs are erected. Also exempted are signs on public property erected by order of the Mayor and Board of Aldermen, which shall be allowed subject to all appropriate sight, distance, and safety considerations being met, as determined by the Mayor and Board of Aldermen.
- K. Warning signs warning the public of the existence of danger, containing no advertising material, of a size as may be necessary to be removed upon the subsidence of danger.
- L. Private property directional signs such as "no parking", "exit", "parking", etc., not to exceed five (5) square feet.
- M. Non-electrical free standing business and non-electrical attached business signs will not require permits if they do not exceed thirty-two (32) square feet.

11.08 ILLEGAL, NONCONFORMING, AND UNUSED SIGNS

A. Illegal Signs

- 1 Definition: An illegal sign is any sign erected or altered after the effective date of this Chapter not complying with the provisions thereof unless said provision was expressly waived or granted a variance.

- 2 Disposition: Any illegal sign shall be removed from the premises upon which it is located within thirty (30) days from the effective date of this Chapter or notice of violation and shall not remain on the premises or elsewhere in the City until a sign permit is issued.
- B. Nonconforming Signs - Any sign that has been erected, constructed or placed in its location and that is being used as of the effective date of this Chapter, shall be conclusively presumed to have been so erected, constructed or placed and used in compliance with the codes and chapters of the City of Brownsville pertaining to signs that were in effect immediately prior to such date.
- 1 Any sign that is non-conforming because it fails to comply with the provisions of this Chapter may not be repaired, restored or reconstructed, provided that such work alters structurally, extends, or enlarges, in whole or in part, unless such sign as so altered, extended or enlarged shall conform with the provisions of this Chapter and a proper permit is obtained.
 - 2 No owner, user, or other person shall alter any non-conforming sign (including alterations in the colors, letters, words, numbers, objects or symbols appearing thereon, excluding message boards), unless such sign as so altered shall conform to the provisions of this chapter. The violation of any one or more of the following regulations shall constitute a forfeiture of the right to continue to use and maintain a non-conforming sign. Consequently, this sign will now be defined as an illegal sign.
 - a. A non-conforming sign shall not be replaced with another non-conforming sign.
 - b. A non-conforming sign shall not have any changes in the words, logo or symbols that are a part of a message unless the sign is a freestanding message board, non-portable.
 - c. A non-conforming sign shall not be structurally altered so as to prolong the life of the sign, to be increased in size or shape, or type, or design.
 - d. A non-conforming sign shall not be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50% of the value of the original structure.
 - e. A non-conforming sign shall not be re-established after the activity or name of the business or ownership shall be changed requiring a change in the sign name or advertisement itself.
 3. All signs which are nonconforming because of: the use of flashing, blinking, intermittent or exposed lighting (except neon); signs which constitute a traffic hazard, block or restrict the visibility of motorists or pedestrians; otherwise constitute an immediate hazard to the general health, safety and welfare of the public of the City, shall be brought into conformity within ten (10) days of the effective date of this Chapter. If such signs are not removed within the aforementioned ten (10) day period, written notification of the obligation to remove such signs shall be furnished by the Building Inspector and delivered to the sign owner/user/property owner by certified mail and the owner/user/property

owner shall thereafter be required to remove said sign from the premises within five (5) days of the receipt of notification from the Building Inspector. Failure to remove such signs within the time periods herein provided shall constitute a violation of this Ordinance.

4. Disposition: It shall be the duty of the sign owner/user and property owner to remove any nonconforming sign in accordance with the requirements of this Section.
5. A request for a variance or interpretation of this chapter, as it pertains to the non-conformity, and which is filed within thirty (30) days of the effective date of this chapter, shall stay further administrative actions pertaining to said sign until such time as the variance or request for interpretation is acted upon.

C. Unused (Abandoned) Signs

1. Definition: An unused or abandoned sign is a sign that meets any of the following criteria:
 - a. A sign that identifies an establishment or goods or services that are no longer provided on the premises where the sign is located.
 - b. A sign that identifies a time, event or purpose which has passed or no longer applies.
 - c. This also applies to sign structures with or without a sign.
2. Disposition:
 - a. Any sign which is defined under paragraph C.(1)(a) of this subsection, and which condition exists for a period of one month, and which sign is otherwise nonconforming, shall be removed by the owner/user/property owner within five (5) days of the end of the one month (thirty [30] day) period.
 - b. Any sign which is defined under subparagraph C.(1)(a) of this subsection which remains in such condition for a period of one month, and which sign is otherwise conforming shall have its copy vacated within thirty (30) days from when the stated circumstances commenced. If the copy remains vacant for a period of six (6) months or more from the date the stated circumstances commenced, the sign structure shall be removed by the owner/user/property owner. Removal shall be within five (5) days following the expiration of the aforementioned six (6) month period.
 - c. Any sign defined under subparagraph C. (1) (b) of this subsection shall be removed by the owner/user/property owner within three (3) days from the time the event or purpose has passed or no longer applies.
 - d. Removal:
 - (1) Any illegal, nonconforming or unused sign which is not removed from the premises by the owner/user/property owner within the time frames prescribed herein shall be considered a violation of the provisions of this Ordinance and shall be subject to the maximum penalties allowed by law. Each day such violation shall continue shall constitute a separate offense.

- (2) Failure to Remove: A failure to remove any illegal, nonconforming or unused sign and subsequent failure by the Building Inspector to duly notify the owner/user/property owner of the provisions of this Section shall not be deemed to constitute a waiver of any violations of this Ordinance, nor shall such inaction be deemed to constitute a determination that any such sign is legal, in conformity with this Ordinance or to be given any special status. If, through administrative neglect or inaction, any owner/user/property owner is not notified of the requirements of this Ordinance within the time frames herein set forth, but is later so notified, said owner/user/property owner shall take action to either correct the illegality, nonconformity or nonuse or shall cause the sign to be removed within twenty (20) days of such notification.

11.09 APPEALS TO THE BOARD OF ZONING APPEALS

A. Right to Appeal

1. Except for instances relating to signs located or proposed to be located on public property, which is within the jurisdiction of the City Board, any person who has been ordered by the Building Inspector for the removal of any sign, or any person whose application for a permit for a sign has been refused, may appeal to the Board of Zoning Appeals by serving written notice to the Building Inspector. Such appeals to the Board of Zoning Appeals shall be on forms provided by the Building Inspector and upon filing of a notice of appeal, the Building Inspector shall take no further action with regard to the sign involved until the final decision of the Board of Zoning Appeals has been rendered, unless the Building Inspector finds by reason of condition, location or nature of the sign involved presents an immediate and serious danger to the public, in which case he shall proceed immediately as provided herein.
 2. Appeal Applicants to the BZA are expected to bring engineered drawings documenting the construction and location of the sign in question. Applications seeking a variance to grant the installation of a sign measuring above the maximum square footage shall document the location of the sign and produce a scaled rendering showing the sign installed relative to its property and surrounding buildings.^{xxx}
- B. Variances. The Board of Zoning Appeals may grant variances concerning the height and setback of signs, the period for removal of nonconforming signs, the maximum sign area, the maximum number of signs, the removal of prohibited signs, and such others as provided for herein only if the following determinations have been made:
1. The appeal falls within the jurisdiction of the Board.
 2. That all parties directly in interest have been notified of the proceedings.
 3. That the granting of the appeal would not have the effect of applying sign standards from a less restrictive zone.
 4. That the property cannot be reasonably used in conformity with the provisions of this Ordinance.

5. That the difficulty complained of is unique to the property in question and is not common to all properties similarly situated.

11.10 PERMITS

In accordance with this Ordinance, no sign shall be erected, altered, or relocated without a building permit acquired subject to the following:

- A. The permit application shall contain the location of the sign structure, the name and address of the sign owner and sign erection, a drawing showing the design, location, materials and colors of the sign.
- B. Required electrical permits shall be obtained prior to submission for a building permit.
- C. Fees for permanent signs shall be in accordance with the normal rate schedule for the Standard Building Code as adopted with a minimum fee of \$15.00. Fees for temporary signs shall be the minimum permit fee.
- D. A building permit for a sign shall become null and void if the sign has not been completed within six (6) months of the date of the permit or the sign varies in any respect from the approved design and location.
- E. Normal sign maintenance to prolong the life of the sign shall not require a permit.
- F. Permits issued to non-profit organizations will not be charged a fee.

CHAPTER 12: PROVISIONS FOR HISTORIC DISTRICTS

12.01 Statement of Purpose

A. General Purpose and Intent

The Historical Districts shall be an overlay on existing districts to designate areas, sites, and structures of sufficient historical and cultural significance to warrant public protection. These provisions are established in order that appropriate measures may be taken to ensure preservation of structures of historic value to Brownsville and Haywood County pursuant to the authority contained in Section 13-7-401 of Tennessee Code Annotated. The general intent includes the following specific purposes:

1. To preserve and protect the historical and/or architectural value of buildings, other structures, or historically significant areas;
2. To regulate exterior design, arrangement, texture, and materials, proposed to be used within the historic districts to ensure compatibility;
3. To create an aesthetic appearance that compliments the historic buildings or other structures;
4. To stabilize and improve property values;
5. To foster civic beauty;
6. To strengthen the local economy;
7. Not to impose overly restrictive or expensive alteration or construction costs on property owners; and,
8. To promote the use of historic districts for the education, pleasure and welfare of the present and future citizens of Brownsville and Haywood County.

12.02 Zoning Map Amendments

A. Amendment Procedures

Any amendment to the Zoning Map of the City of Brownsville designating Historical districts shall be subject to the following.

1. Chapter 9 Section 7 of the Official Zoning Ordinance; and,
2. Review by the Historic Commission.

The Historic Districts, whose boundaries shall be shown on the zoning map which are made a part of this Ordinance and noted by name on said maps, is a district in which no structure shall be constructed, altered, repaired, relocated or demolished unless the action complies with the requirements set forth in this Code.

A historic district shall be defined as a geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one or more of the following criteria:

1. That it is associated with an event which has made a contribution to local, state, or national history; or,
2. That it includes structures associated with the lives of persons in local, state or national history; or,
3. That it contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represent the

work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or,

4. That it has yielded or may be likely to yield archaeological information important in history or prehistory; or,
5. That it is listed in the National Register of Historic Places.

12.03 Provisions Governing the Historic Zoning Commission

A. Appointment of Historic Zoning Commission

The Brownsville Historic Zoning Commission (BHZC) shall consist of seven (7) members appointed by the Mayor and confirmed by a majority vote of the Board of Alderman. The appointments to membership of the commission shall be so arranged that the terms of two (2) members shall be four (4) years, the terms of two (2) members shall be three (3) years, the terms of two (2) members shall be two (2) years, and the terms of one member shall be one (1) year. Members whose terms expire or their successors may be appointed for terms of four (4) years. All members shall serve without compensation. The Historic Zoning Commission shall consist of representative of a local historical or patriotic organization, an architect, if available, a member of the local planning commission, at the time of his/her appointment; and the remainder shall come from the community in general.

B. Powers and Duties of the Historic Zoning Commission

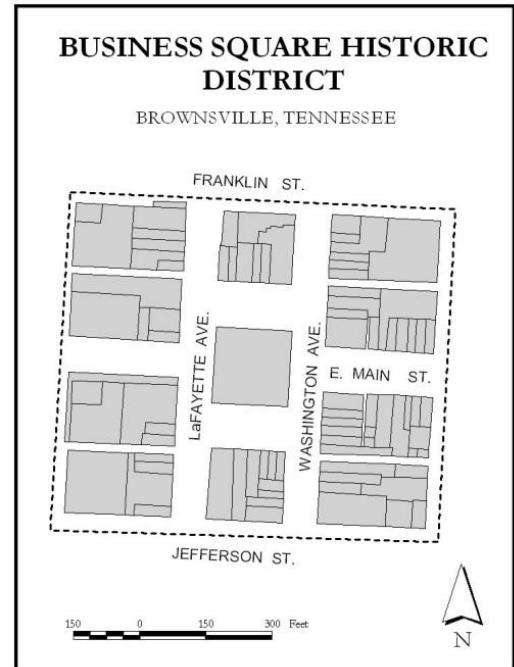
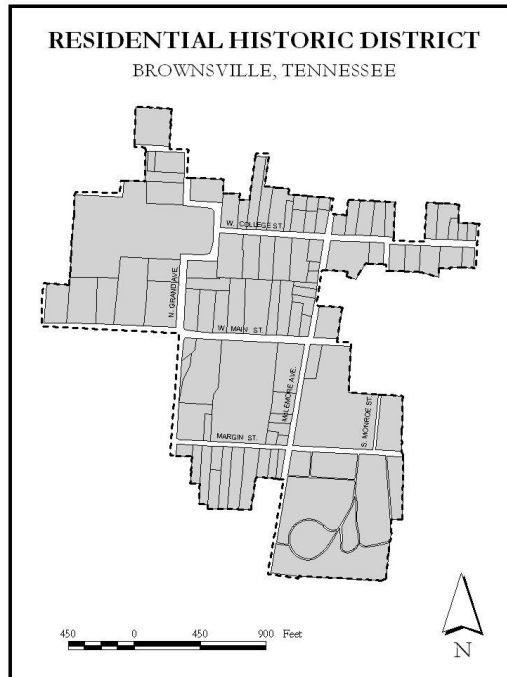
1. The Historic Zoning Commission shall review applications regarding the creation of Historic Districts. The review of such applications shall be in accordance with the criteria set forth in 7.04 of this Chapter. The Commission shall furnish to the Planning Commission, in writing, its recommendations regarding the creation of any Historic District.
2. Prior to the establishment of a Historic District, and subsequent to City Board adoption of the district the Historic Zoning Commission shall adopt for each such proposed District a set of design guidelines, which it will apply in ruling upon the granting or denial of a certificate of appropriateness as provided for in this chapter. Such review guidelines shall be consistent with the purpose of this Chapter and with regulations and standards adopted by the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended, applicable to the construction, alteration, rehabilitation, relocation or demolition of any building, structure, or other improvements situated within a Historic district which has been certified by the Secretary of the Interior as a registered Historic District. Reasonable public notice and opportunity for public comment, by public hearing or otherwise, shall be required before the adoption of any such review guidelines.
3. It shall be the duty of the Historic Zoning Commission to make the following determinations with respect to the Historic Districts when applicable.
 - (a) Appropriateness of altering or demolishing any building or structure within the Historic District. The Commission may require interior and exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure, such photographs, drawings, etc. shall be at the expense of the applicant.

- (b) Appropriateness of exterior architectural features, including signs and other fixtures of any new buildings and structures to be constructed within the historic district and the appropriateness of exterior design of any new extension or any existing building or structure within the historic district. Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the historic district.
 - (c) Appropriateness of the general exterior design, arrangement, texture and material of the building or other structure in question and the relation of such factors to similar features of the buildings in the immediate surroundings and entire district.
 - (d) That all work to be undertaken in the Historic District complies with the applicable review guidelines, with primary consideration to be given to:
 - (3) Historical or architectural value of the present structure;
 - (4) The relationship of the exterior architectural features of such structure to the rest of the structures, to the surrounding area, and to the character of the District.
 - (5) The general compatibility of exterior design, arrangements, texture, and materials proposed to be used; and
 - (6) To any other factor, including aesthetic, which is reasonably related to the purpose of this section.
4. Right of Entry upon the Land – The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.
 5. Liability of Historic Zoning Commission Members – Any Historic Zoning Commission member acting within the power granted by this chapter is relieved from all personal liability for any damage and shall be held harmless by the City Board. Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the City Board until the final termination of the procedure.
 6. Submittal of Zoning Permit to the Historical Zoning Commission – The Zoning Administrator and/or Building Official shall not issue permits for construction, alteration, repair, demolition, or relocation of a building or structure within any Historical district, without first submitting the request for such permit together with all plans, elevations, or other information as may be required to determine the appropriateness of the features to be passed upon by the Historic Zoning Commission.
 7. Approval by the Historic Zoning Commission – Upon approval of any application, the Historic Zoning Commission shall forthwith transmit a report to the Zoning Administrator and/or Building Official stating the basis upon which such approval was made, and cause a Certificate of Appropriateness to be issued to the applicant. Upon failure of the Historic Zoning Commission to take final action within thirty (30) days after receipt of the application, the case shall be

deemed approved, except when mutual agreement has been made for an extension of the time limit. When a Certificate of Appropriateness has been issued, a copy thereof shall be transmitted to the Zoning Administrator, and/or Building Official, who shall from time to time, inspect the construction or alteration of the exterior approved by such certificate, and report to the Historic Zoning Commission any work not in accordance with such certificate before issuing an Occupancy Permit.

8. Disapproval by the Historic Zoning Commission – In the case of disapproval of any application, the Historic Zoning Commission shall state the reasons, thereof, in a written statement to the applicant. Notice of such disapproval and a copy of the written statement of reasons, thereof, shall also be transmitted to the Zoning Administrator and/or Building Official.
9. Approval of Removal or Demolition – In the event a request to remove or demolish a building or structure within a Historic/Cultural District is submitted or such demolition is required, the building official receiving such request or initiating such action shall transmit a copy thereof to the Historic Zoning Commission and said Commission shall have a period of thirty (30) days from the date the application was filed to act upon the request. Upon failure of the Historic Zoning Commission to take action within thirty (30) days after the filing of an application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.
10. Appeals from Decisions of the Historic Zoning Commission – Appeals from any decision of the Historic Zoning Commission may be taken to a court of competent jurisdiction as provided for by law.

12.04 Historic Districts



12.045 Design Guideline Principles

A. Purpose

Design guidelines are criteria and standards which the Brownsville Historic Zoning Commission must consider in determining the appropriateness of proposed work within a historic district.

B. General Guidelines for Rehabilitation of Existing Structures

1. Every reasonable effort shall be made to provide a compatible use for property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be encouraged.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material

- should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.
 9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
 10. Where possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

ENDNOTES

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- ⁱ Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ⁱⁱ Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ⁱⁱⁱ Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{iv} Ordinance 896/01/08/13/#2 First Reading 12/11/2012, Public Hearing and Final Reading 01/08/2013
- ^v Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{vi} Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{vii} Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{viii} Ordinance 832-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06
- ^{ix} Ordinance #909/08/12/14/#8
- ^x Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{xi} Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{xii} Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{xiii} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
- ^{xiv} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
- ^{xv} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
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- ^{xviii} Ordinance #909/08/12/14/#8
- ^{xix} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
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- ^{xxiii} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
- ^{xxiv} Ordinance 833-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06 – Deleted 50’ setback for lots adjoining a residential lot.
- ^{xxv} Ordinance #888/08/09/11/#5
- ^{xxvi} Ordinance 896/01/08/13/#2 First Reading 12/11/2012, Public Hearing and Final Reading 01/08/2013
- ^{xxvii} Ordinance 893/08/14/12/#5 First Reading 07/10/2012, Public Hearing and Final Reading 08/14/2012
- ^{xxviii} Ordinance 856/08/09 deleted existing Chapter 8 and replaced it with new provisions - Introduced by the Sign Committee March 2008 - First Reading April 8, 2008 - Public Hearing and Final Reading May 13, 2008.
- ^{xxix} Ordinance 831-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06. Ordinance 856/08/09 further modified the sign ordinance using the Sign Committee’s recommendations.
- ^{xxx} Ordinance 831-06 Introduced by Planning Commission 10/06, First Reading 11/15/06, Public Hearing and Final Reading 12/12/06