

# **ZONING ORDINANCE**

**BURNS, TENNESSEE**

**ORDINANCE NO. 184**

**ZONING ORDINANCE**

**BURNS, TENNESSEE**

**ADOPTED: DECEMBER 3, 2007**

**LAST AMENDED: JANUARY 8, 2024**

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**LOCAL PLANNING ASSISTANCE OFFICE**

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>ARTICLE I      ENACTMENT</b>	<b>I-1</b>
1.010      Authority	I-1
1.020      Title	I-1
1.030      Purpose	I-1
1.040      Enactment	I-2
1.050      Repeal	I-2
<b>ARTICLE II      CONSTRUCTION OF LANGUAGE AND DEFINITIONS</b>	<b>II-1</b>
2.010      Rules for Construction of Language	II-1
2.020      General Definitions	II-2
2.030      Use Classification System	II-15
<b>ARTICLE III      GENERAL PROVISIONS</b>	<b>III-1</b>
3.010      Scope	III-1
3.020      Only One (1) Principal Building on Any Residential Lot	III-1
3.030      Lot Must Abut a Public Street	III-1
3.040      Reduction in Lot Area Prohibited	III-1
3.050      Rear Yard Abutting a Public Street	III-2
3.060      Corner Lots	III-2
3.070      Future Road Lines	III-2
3.080      Obstruction to Vision at Street Intersection Prohibited	III-2
3.090      Access Control	III-2
3.100      Accessory Use Regulations	III-3
3.110      Landscaping and Buffer Strips	III-3
3.120      Party Walls	III-3
3.130      Site Plan Requirements	III-4
3.140      Relationship to Design Review Manual	III-5
<b>ARTICLE IV      SUPPLEMENTARY PROVISIONS                          APPLYING TO SPECIFIC DISTRICTS</b>	<b>IV-1</b>
4.010      Off-Street Parking Requirements	IV-1
4.020      Off-Street Loading and Unloading Requirements	IV-3
4.030      Temporary Use Regulations	IV-4
4.040      Gasoline Service Station Restrictions	IV-6
4.050      Swimming Pool Restrictions	IV-6
4.060      Development Standards for Group Housing Projects	IV-6
4.070      Standards for Signs, Billboards, and Other Advertising Structures	IV-7
4.080      Development Standards for Mobile Home Parks	IV-7
4.090      Development Standards for Automobile Wrecking, Junk and Salvage Yards	IV-15
4.100      Development Standards for Cemeteries	IV-16
4.110      Development Standards for Telecommunication Antennas and Towers	IV-17
4.120      Standards for Cluster Residential Developments	IV-21
4.130      Standards for Automotive Services and Repair Establishments	IV-24
4.140      Standards for Mobile Homes Located on Individual Lots	IV-25
4.150      Development Standards for Self-Storage	IV-25

**Table of Contents**  
**Page 2**

	<b><u>PAGE</u></b>
<b>CHAPTER V ESTABLISHMENT OF DISTRICTS</b>	<b>V-1</b>
5.010 Classification of Districts	V-1
5.020 Zoning Map	V-2
5.021 Zoning District Boundaries	V-2
5.022 Zoning of Annexed Land	V-2
5.023 Public Sewerage	V-2
5.030 Residential District Regulations	V-3
5.031 A-1, Agricultural-Estate Residential District	V-3
5.032 RE, Residential Estate District	V-6
5.033 R-1, Low-Density Residential District	V-8
5.034 R-2, Medium-Density Residential District	V-10
5.035 R-3, High-Density Residential District	V-12
5.036 MH, Mobile Home Park District	V-14
5.040 Planned Unit Development Districts	V-16
5.041 General Provisions	V-17
5.042 Administrative Procedure	V-19
5.043 Residential Planned Unit Developments	V-23
5.044 R-1, Low-Density Residential Planned Unit Development	V-24
5.045 R-2, Medium-Density Residential Planned Unit Development	V-26
5.046 R-3, High-Density Residential Planned Unit Development	V-26
5.050 Commercial District Regulations	V-30
5.051 OMP, Office-Medical-Professional Service District	V-30
5.052 <b>RESERVED</b>	V-32
5.053 CC, Commercial Corridor District	V-33
5.054 PC, Planned Commercial Center	V-35
5.060 Industrial Districts	V-43
5.061 BP, Business Park District	V-43
5.062 <b>RESERVED</b>	V-46
5.063 I-2, Special Impact Industrial District	V-46
<b>ARTICLE VI EXCEPTIONS AND MODIFICATIONS</b>	<b>VI-1</b>
6.010 Scope	VI-1
6.020 Nonconforming Uses	VI-1
6.030 Exceptions to Height Limitations	VI-4
6.040 Lots of Record	VI-5
6.050 Exceptions to Front Setback Requirements	VI-5
6.060 Absolute Minimum Lot Size	VI-5

**Table of Contents**  
**Page 3**

	<b><u>PAGE</u></b>
<b>ARTICLE VII FLOODPLAIN DISTRICT REGULATIONS</b>	<b>VII-1</b>
<b>ARTICLE VIII ADMINISTRATION AND ENFORCEMENT</b>	<b>VIII-1</b>
8.010 Administration and Enforcement	VIII-1
8.020 The Enforcement Officer	VIII-1
8.030 Zoning Compliance Permit (Building Permits)	VIII-2
8.040 Temporary Use Permits	VIII-3
8.050 Town Board of Zoning Appeals	VIII-4
8.060 Variances	VIII-6
8.070 Procedure for Authorizing Special Exceptions	VIII-8
8.080 Amendments to the Ordinance	VIII-11
8.090 Penalties	VIII-12
8.100 Remedies	VIII-12
8.110 Validity	VIII-13
8.120 Interpretation	VIII-13
8.130 Effective Date	VIII-13

## **AMENDMENTS**

<b><u>DATE</u></b>	<b><u>ORDINANCE NO.</u></b>	<b><u>AMENDMENTS</u></b>
April 6, 2009	209	Amending Article IV to add new Section 4.140 to allow more flexibility in the placement of mobile homes.
July 6, 2009	212	Deleting and replacing Article VII in its entirety with floodplain district regulations.
May 3, 2010	215	Amending Article II, Section 2.030, F, 2, b. by the omission of “Non-“ from term.
October 2, 2017	265	Amending ART V, Section 5.035, part 6, letter a by modifying the minimum lot size for single-family dwellings, each additional dwelling, and lot width at building setback line.
October 2, 2017	266	Amending ART IV, Section 4.030, addition of new Subsection I, Temporary Dwelling Units in Case of Medical Necessity.
August 3, 2020	297	Amending ART II, Section 2.020, addition of new language to Detached Dwelling, Mobile Home Dwellings, deletion of Prefabricated Dwellings, addition of new definitions for Mobile Home Park Park, Mobile Home Space, Mobile Home Stand, and Travel Trailer; Amending ART IV, Section 4.080, addition of new language for mobile home parks; ART V, Section 5.036, addition of new language for MH Mobile Home Park District; and ART VIII, creation of Section 8.070, Procedure for Authorizing Special Exceptions
January 8, 2024	2023-329	Amending ART II, Section 2.020, addition of definitions for Self-Storage, Bulk Storage/Warehousing, and Commercial Storage; Amending ART II, Section 2.030, adjusting use classifications; and ART IV, adding Section 4.150 Development Standards for Self-Storage; add Commercial Storage and Self-Storage as permitted uses in OMP and CC; add Bulk Storage, Commercial Storage, and Self-Storage as permitted uses in BP; Add Bulk Storage as permitted use in I-2; strike Transport and Warehousing as use from BP District.

## ARTICLE I

### ENACTMENT

#### SECTIONS

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

#### **1.010 AUTHORITY**

An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-210, Tennessee Code, to regulate, in the portions of Burns, Tennessee, which lie inside of the municipal corporation, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, agricultural, forestry, soil and water conservation, public activities and other purposes including areas subject to flooding; to provide for the orderly and reasonable uses of solar energy in the interest of public health, safety and general welfare; to provide methods of administration of this ordinance, and to prescribe penalties for the violation thereof.

#### **1.020 TITLE**

This ordinance shall be known as **Zoning Ordinance No. 184, of Burns, Tennessee**, dated, **December 3, 2007**. The zoning map shall be referred to as the **Official Zoning Map of Burns, Tennessee**, and all explanatory matter thereon is hereby adopted and made a part of this ordinance.

#### **1.030 PURPOSE**

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

- A. Enhancing the character and stability of residential, business, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;
- B. Preventing overcrowding of land;
- C. Conserving the value of land and buildings;
- D. Minimizing traffic hazards and congestion;
- E. Preventing undue concentration of population;
- F. Providing for adequate light, air, privacy, and sanitation;
- G. Reducing hazards from fire, flood, and other dangers;

- H. Assisting in the economic provision, utilization, and expansion of all services provided by the public, including but not limited to roads, water and sewer service, recreation, schools, and emergency services;
- I. Encouraging the most appropriate uses of land;
- J. Enhancing the natural, man-made and historical amenities of Burns, Tennessee.

#### **1.040 ENACTMENT**

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

#### **1.050 REPEAL**

Any existing Zoning Ordinance of Burns, Tennessee, is hereby repealed. The adoption of this ordinance, however, shall not affect or prevent any pending or future prosecution of an action to abate any existing violation of said regulations, as amended, if the violation is also a violation of this ordinance.



## ARTICLE II

### CONSTRUCTION OF LANGUAGE AND DEFINITIONS

#### SECTIONS

- 2.010 Rules for Construction of Language
- 2.020 General Definitions
- 2.030 Definition of Land Use Activities

#### **2.010 RULES FOR CONSTRUCTION OF LANGUAGE**

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

- A. The particular shall control the general.
- B. The word "shall" is always mandatory and not discretionary.
- C. The word "may" is permissive.
- D. The word "lot" shall include the words "piece" or "parcel".
- E. The word "structure" includes all other structures, or parts thereof, 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".
- F. 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.
- G. The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a conditional use permit.
- H. The words "permitted with supplemental provisions" mean an activity, use or structure is permitted subject to a finding by the zoning administrator that the specific standards indicated for the use in question have been met.
- I. The words "conditionally permitted" or "permitted by conditional use permit" mean permitted subject to the requirements for a conditional use by special permit pursuant to Article VIII, Section 8.050, (Conditional Use Permits) of this ordinance, and all other applicable provisions.
- J. 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.

- K. Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:

**"And" indicates that all connected items, conditions, provisions or events shall apply.**

**"Or" indicates that the connected items, conditions, provisions, or events shall apply.**

**"Either ... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.**

All public officials, bodies, and agencies to which reference is made are those of the City of Burns, Tennessee.

## **2.020 GENERAL DEFINITIONS**

### **2.020 Application**

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.

### **2.021 Terms Defined**

**ABUTTING** - Having a common border with, or being separated from such a common border by a right-of-way or easement.

**ACCESSORY** - An activity or structure that is customarily associated with and is appropriate incidental and subordinate to a principal activity and/or structure and located on the same zone lot, except as provided for under the provisions for accessory off-street parking. Examples of an accessory structure are freestanding garages, carports, or premanufactured storage buildings used to contain lawnmowers or other household items.

**ACCESSORY APARTMENT** - A temporary accessory dwelling unit located in a one- family residence that is subordinate to the principal one-family dwelling in terms of size and appearance and which apartment does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood.

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

**ACTIVITY-PRINCIPAL** - (See PRINCIPAL ACTIVITY.)

**ACTUAL CONSTRUCTION** - The excavation of a site and/or the placement of building materials in conjunction with the construction of a building or other structure.

**ADULT ORIENTED BUSINESS** - A commercial enterprise that offers as its principal or predominant stock or trade sexually oriented material, devices, or paraphernalia or specified sexual activities or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. "Adult Oriented Business" includes, but is not limited to:

- (A) **“Adult Book Stores”**: which means any corporation, partnership or business of any kind which has as its principal or predominant stock in trade books, magazines or other periodicals and which offers, sells or rents for a fee:
- (1) Any sexually-oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or
  - (2) Any sexually-oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or
  - (3) Any sexually-oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age;
- (B) **“Adult Motion Picture Theaters”**: which means an enclosed building used for presenting films which are distinguished by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and
- (C) **“Adult Shows” or “Adult Peep Shows”**: which includes all adult shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities.

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

**APARTMENT HOTEL** - (See DWELLING, LODGING HOUSE.)

**ATTACHED** - An enclosure having continuing walls, roof and floor.

**BUILDING** - Any structure which:

- (A) Is permanently affixed to the land, and
- (B) Has a roof supported by columns or walls, and
- (C) Is intended for the shelter or enclosure of goods or persons, and
- (D) is bounded by either open area or the lot lines of a zone lot.

A building shall not include such structures as billboards, fences, radio or TV towers, or structures not normally accessible for human use, such as gas storage tanks, smoke stacks, grain elevators, exposed industrial equipment (i.e., oil or chemical processing apparatus) or similar structures.

**BUILDING-PRINCIPAL** - (See Principal Building.)

**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:

- (A) The size (including height and floor area) of buildings or other structures,
- (B) The area of the zoning lot upon which a residential building is located, and the number of dwelling units within such buildings in relation to the area of the zoning lot,
- (C) 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
- (D) All open areas relating to buildings or other structures and their relationship thereto.

**BULK STORAGE/WAREHOUSING** – The holding or stockpiling of materials or products on land where such storage is for the collection and/or distribution of the material and/or products rather than processing. **(amended by Ordinance 2023-329, January 8, 2024)**

**CENTRAL SEWAGE COLLECTION AND TREATMENT SYSTEM** - A waste water collection and/or treatment system owned and operated by a public or quasi-public organization and approved by all appropriate licensing and oversight agencies. This term shall not be construed to include any type of privately owned and operated individual disposal system to include septic or other similar systems.

**CHILD CARE** - the provision of supervision and protection of the basic needs of at least five (5) children who are not related to the primary care givers for at least three (3) hours per day, but less than twenty-four (24) hours per day.

As used in this ordinance, the term is not intended to include baby-sitting services of a casual, nonrecurring nature or in a child's own home. Likewise, the term is not intended to include cooperative reciprocal child care by a group of parents, in their domiciles or the keeping of four (4) or less pre-teenage children, which is an activity regulated as a minor home occupation by this ordinance and requires no licensing by the State of Tennessee.

(See Day Care Center, Drop in Center, Family Child Care Home, Group Child Care Home.)

**COMMERCIAL COMPLEX** - A commercial complex shall mean:

- (A) Two (2) or more buildings proposed for occupancy by commercial activities constructed or to be constructed upon one zone lot, or
- (B) Two (2) or more principal commercial uses or occupancies located upon one zone lot.

**COMMERCIAL STORAGE** – The storing of goods or materials for sale in a non-industrial business located on the premises. **(amended by Ordinance 2023-329, January 8, 2024)**

**COMMON OPEN SPACE** - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for use or enjoyment of the occupants of said development. "Common Open Space" may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants of such development.

**COMPLETELY ENCLOSED** - Refers to a building or other structure having a roof, and separated on all sides from the adjacent open area or from other buildings or other structures, by exterior walls or party 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 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 districts as conditional uses, only when specific provisions for such use is made in this ordinance. 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.

**CONDOMINIUM** - A form of ownership which provides single ownership in a multi- unit structure or structures with common elements.

**CURB LEVEL** - The mean of the elevations of the side lot lines extended to the street line.

**CURB LINE** - The line formed by a curb extending along its roadbed or street bed.

**DAY CARE CENTER** - A facility that provides child care for thirteen (13) or more children. Children aged thirteen (13) or older who are related to the primary care giver are not included in the total provided that the facility is the occupied residence of the primary care giver.

**DENSITY** - The ratio of the number of dwelling units located on a lot to the horizontal area of the lot, expressed in units per acre.

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

**DEVELOPMENT AREA (MINIMUM)** - The minimum amount of land area required for each dwelling unit located upon a zone lot. The minimum lot size provision shall apply to all lots within the district. However, the minimum development area provision may require a lot larger than the minimum lot size where the intended intensity of use would so require.

**DORMITORY** - A facility providing group living quarters for a student body, or other group as an associated use to a college, university, boarding school, orphanage, or other similar use when not located on the same site as the principal associated use. Rooming units are not equipped with kitchen facilities, although one or more dwelling unit may be provided for occupancy by staff. This term is intended to include university dormitories as well as fraternity or sorority houses.

**DROP IN CENTER** - Is a place or facility that provides casual care for children who are not regularly enrolled at the facility. Such facility shall be operated in connection with a business establishment, recreational facility, or similar activity where children are cared for during short periods of time not to exceed 10 hours per week and for no more than 6 hours each day for any individual child, while the parents are engaged in short term activities such as shopping, recreation, but not including employment.

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

**Boarding House** - Means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and having common cooking and dining facilities.

**Dwelling, Attached** - A one-family dwelling unit, with a private entrance, which is part of a structure of three (3) or more dwelling units that are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation. (Same as a townhouse.)

**Dwelling, Detached** - A building located upon one lot containing not more than two dwelling units, separated from structures on the same or adjacent lots. May be further defined as one-family detached or two-family detached.

Modular Home Dwellings are preempted by 13-42-101 and 68-126-202 of the Tennessee Code Annotated, and are permitted to be placed in any zoning district where detached dwellings are permitted. Modular homes are regulated according to standards set in the most current Building Code. (See also Modular Home Dwelling.)

Double-wide mobile homes/multi-sectioned manufactured homes are preempted by Section 68-126-412 of the Tennessee Code Annotated, 42 U.S.C. § 5401, and 24 C.F.R. §3282.11, and said multi-sectioned homes are permitted to be placed in any zoning district where single detached dwellings and modular homes are permitted (see also definition for Mobile/Manufactured Home Dwelling.) **(amended by Ordinance 297, August 3, 2020)**

**Mobile/Manufactured Home Dwellings** - Means a detached one-family dwelling with all the following characteristics:

- (1) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, and has a RED tag issued by the Federal Department of Housing and Urban Development. This definition excludes Travel Trailers or Recreation Vehicles for use as permanent dwellings (see also definitions for Travel Trailer in this chapter, and Recreational Vehicle in ART VII, Section 7.020 of this Ordinance.)
- (2) Constructed as a single self-contained unit and mounted on a single or combined chassis transportable after fabrication on its own wheels or detachable wheels.
- (3) Arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

For purposes of this definition, **a double-wide mobile home/multi-sectioned manufactured home** means the same as a single-wide mobile home except a multi-section dwelling with each section built on a chassis, designed to be joined into one integral unit with one title for the whole structure. For placement in any residential zoning district and compatibility with the character offered by a single detached dwelling as defined herein (see also definition of Detached Dwelling), the following is required of a double-wide mobile home / multi-sectioned manufactured home, as well as all other requirements under Tenn. Code Ann. § 13-24-202, which requires

multi-sectioned manufactured homes to have the same general appearance as required for site-built homes:

- An affidavit of affixation so that the manufactured home becomes part of the land
- Perimeter blocking of underside of structure with substantive material (metal siding or sheeting for blocking is not permitted)
- Removal of the trailer tongue
- Axles and wheels removed or otherwise skirted/blocked from view
- Secondary electric service meter and line from the primary line physically attached to the dwelling
- Dwelling must have three feet by three feet (3' by 3') landing outside the exit doors and steps to ground with hand rails and railing for safety
- All piers under the dwelling set on poured concrete pads two feet by two feet (2' by 2') and ten (10) inches deep
- Water line to the home must have a shut-off valve for easy accessibility
- Clean outs on sewer line
- Yard around the multi-sectioned home seeded and strawed

**Modular Home Dwelling** – Means a dwelling unit constructed on-site in accordance with the applicable building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Such home shall be deemed a single- family dwelling if it meets all other applicable requirements of this Ordinance. Modular homes shall meet the specifications of the latest local building code, and mounted on a permanent foundation, and have a GREEN tag issued by the State of Tennessee Department of Commerce and Insurance. **(added by Ordinance 297, August 3, 2020)**

**Multi-Family Dwelling** - Means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more households each of which have separate living quarters.

**Rooming House** - Means a building and accessories thereto principally used, designed, have adapted to provide living accommodations for not more than six (6) occupants and without owner-provider cooking and dining facilities.

**Townhouse** - A one-family dwelling unit, with a private entrance, which is part of a structure of three (3) or more dwelling units that are attached horizontally in a linear arrangement, and having exposed front and rear walls to be used for access, light, and ventilation. (Same as an attached structure.)

**Upper Story Dwelling** - The area of a building above the ground floor which is principally used, designed, or adapted for use by one or more households each of which has separate living quarters of at least five hundred (500) square feet.

**EASEMENT** - A grant of one (1) or more of the property rights by the owner to, or for use by, the public, a corporation or another person or entity.

**FAMILY** - One of the following:

- (A) An individual, or two (2) or more persons occupying a dwelling unit and living as a single independent, nonprofit housekeeping unit, together with incidental domestic servants and temporary nonpaying guests.
- (B) A group of not more than six (6) unrelated persons living together as a single nonprofit housekeeping unit.
- (C) Four (4) or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if said occupants are handicapped persons, as defined by Title VIII, of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined herein.

**FAMILY CHILD CARE HOME** - A facility that provides child care for at least five (5) children, but less than eight (8). Children aged thirteen (13) or older who are related to the primary care giver are not included. The place or facility must be in the occupied residence of the license applicant (primary care giver).

**FLOODS** - (See Article VII, for all definitions pertaining to floods and floodplain provisions.)

**GROUP CHILD CARE HOME** - A facility that provides child care for at least eight (8) children, but less than thirteen (13) children; provided, that up to three (3) additional school aged children may receive care before and after school, on school holidays, on school snow days, and during summer vacation. Children aged thirteen (13) or older who are related to the primary care giver are not included in the total provided that the facility is the occupied residence of the primary care giver.

**HAZARDOUS OCCUPANCY** - The principal use of a building or structure, or any portion thereof, that involves the manufacture, use or storage of highly combustible, flammable or explosive materials or materials that constitute a high fire hazard and as further defined as a type "H" occupancy in the Standard Building Code.

**HOME OCCUPATION** - An incidental home occupation such as the professional office of an architect, artist, engineer, lawyer, accountant, contractor, electrician, etc. that is conducted within the dwelling; is conducted by at least one (1) family member occupying the residence and no more than one person not residing at the residence; that no stock in trade shall be displayed outside the building and that no goods are sold other than those produced by the home occupation; that occupies no more than twenty-five (25) percent of the usable floor area of all buildings and is clearly subordinate to the residential use of the dwelling and premises; that requires no exterior alteration to the buildings or machinery and equipment not customarily used in a residential area; and that no heavy machinery such as backhoes, bulldozer, trucks above 11,000 LB GVW, etc., may be stored at the home occupation.

**INCIDENTAL ALTERATIONS** - Modifications to a building or structure that meet the following criteria:

- (A) Changes or replacements in the nonstructural parts of a building or other structure, including but not limited to the following:
  - (1) Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;



- (2) A minor addition to the exterior of a residential building, such as an open porch;
  - (3) Alterations of interior non load-bearing partitions in all other types of buildings or other structures; or
  - (4) Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits.
- (B) 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:
- (1) Making windows or doors in exterior walls;
  - (2) Replacement of building facades having nonload-bearing capacity; or
  - (3) 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 that contains improvements including buildings or other structures having a total assessed valuation of ten thousand dollars (\$10,000) or less.

**LANDHOLDER** - The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee having a remaining term of not less than fifty (50) years in duration, or other person having an enforceable proprietary interest may be considered a "landholder" for the purpose of this ordinance.

**LIVESTOCK** - means cattle, sheep, swine, poultry and other animals or fowl, which are being produced primarily for use as food or food products for human consumption or horses.

**LOT** - A tract, plot, or portion of a subdivision or parcel of land intended as a unit for the purpose, whether immediate or future, for transfer of ownership or for building development.

**LOT AREA** - The horizontal area included within the boundary lines of a lot.

**LOT, CORNER** - A lot situated at the intersection of two (2) streets.

**LOT, INTERIOR** - Any lot other than a corner lot.

**LOT, THROUGH** - Any lot that adjoins two (2) street lines opposite to each other and parallel or within forty-five (45) degrees of being parallel to each other. Any portion of a through lot that is not or could not be bounded by two (2) such opposite street lines and two (2) straight lines intersecting such street lines shall be subject to the regulations for an interior lot.

**LOT COVERAGE** - That portion of a zone lot which when viewed directly from above, could 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 boundary of a zone lot.

**LOT LINE EQUIVALENT** - A straight line established for the purpose of determining the location and depth or width of a required yard and which either:

- (A) Joins points specified in these regulations, or
- (B) Is an extension of a street line or lot line.

### **LOT MEASUREMENTS**

- (A) 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 the rear.
- (B) 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 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 recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**MANUFACTURED HOME** - (See DWELLING, PREFABRICATED.)

**MANUFACTURED HOME SPACE** - A designated area within a manufactured home park for the exclusive use of the occupants of a single home.

**MOBILE HOME PARK** - A development containing mobile home lots for sale or for rent. (added by Ordinance 297, August 3, 2020)

**MOBILE HOME SPACE** - The portion of a mobile home park dedicated for occupation by a single mobile home that shall include the mobile home stand and any private yard space dedicated to such mobile home. (added by Ordinance 297, August 3, 2020)

**MOBILE HOME STAND** - That part of a mobile home lot that has been reserved for the placement of a mobile home. (added by Ordinance 297, August 3, 2020)

**MODULAR HOME** - (See DWELLING, PREFABRICATED.)

### **NONCOMPLYING**

- (A) Any lot of record which does not contain sufficient lot area to conform to the area requirements for the zoning district in which the lot is located.

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

**NONCONFORMING SIGN** - A lawful sign existing at the effective date of the adoption of this ordinance that does not conform with the provisions of this ordinance.

**NONCONFORMING USE** - A lawful use of a building or other structure other than a sign 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.

**OCCUPANT** - For the purposes of this ordinance an occupant is a single legal entity who holds possession of a property, or portion thereof, as either an owner or a tenant.

**OCCUPANCY** - The principal use of land for the performance of a function or operation by a person, firm, corporation, or association as a single legal entity. For the purposes of this ordinance there shall be only one principal use of land by any one person, firm, corporation, association or legal entity.

**PARTY WALL** - A wall on an interior lot line, used or adopted for joint service between two (2) buildings; such walls shall extend from the foundation to the underside of roof sheathing without openings which would permit the spread of fire from one building to another and shall fully comply with fire and all other provisions and standards established for such walls in the Standard Building Code.

**PERMANENT ACCESS EASEMENT** - A perpetual easement guaranteeing right of ingress and egress to and from the premises of a lot owner to a street appurtenant to the land of the owner. Any permanent access easement utilized as the sole means of providing legal access to two (2) or more parcels of land shall: (1) be so designed as to assure continuing adequate ingress and egress for emergency vehicles; (2) be assured adequate continuing maintenance by an owners association or similar organization; and (3) be constructed such that the portion of the permanent access easement intended for ingress and egress complies with the standards of a public street as specified in the Subdivision Regulations. In any instance where a permanent access easement is located within a PUD District, the design standard shall be as approved in the development plans required therefor.

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

**PLANNED UNIT DEVELOPMENT** - A relatively large, interrelated development adhering to a master development plan and located on a single tract of land, or on two (2) or more tracts of land which may be separated only by a street or other right-of-way.

**PRINCIPAL ACTIVITY** - An activity which fulfills a primary function of an establishment, institution, household, or other entity.

**PRINCIPAL BUILDING** - A building which contains the principal activity or use of the zone lot on which the building is situated.

**PROFESSIONAL OFFICE**- A professional office is an office for the use of a person or persons generally classified as professionals such as architects, engineers, attorneys, accountants, doctors, lawyers, dentists, psychiatrists, psychologists, insurance agents, real estate agents, etc. It is characteristic of professional offices that display advertising is limited and that the use is characterized principally by offering consulting services and is not dependent on the sale of goods.

**REQUIRED YARD** - (See YARD, REQUIRED.)

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

- (A) Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or
- (B) Dormitories, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations, or
- (C) 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
- (D) In a mixed building, that part of the building used for any nonresidential uses, except uses accessory to residential uses.

**RESIDENTIAL** - Pertaining to a residence.

**RESIDENTIAL BUILDING** - Any building utilized solely for residential activities and their accessory functions.

**RIGHT-OF-WAY LINE** - Right-of-way line is a line contiguous with a lot line dividing a lot from an abutting street.

**ROOMING HOUSE** - (See DWELLING LODGING HOUSE.)

**ROOMING UNIT** - One (1) or more rooms that are arranged, designed, used or intended for occupancy by one (1) or more persons, and that do not include lawful cooking space or lawful sanitary facilities reserved for the occupants thereof.

**SELF-STORAGE** – A building or group of buildings within a controlled access compound that contains various sizes of individual, compartmentalized, and controlled access stalls and lockers, available for lease or rent by customers to store those customers' personal goods. This definition specifically excludes storage for, or incidental to, commercial or industrial commerce, manufacturing, or distribution. **(amended by Ordinance 2023-329, January 8, 2024)**

**SETBACK LINE** - A line which establishes the minimum distance the principal building must be setback from the street line.

**SEXUALLY ORIENTED MATERIAL** - Means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording which depicts sexual activity, actual or simulated, involving human beings or

animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits male genitals in a discernibly turgid state if completely uncovered.

**SINGLE OWNERSHIP** - Means a proprietary interest of a landholder as defined herein.

**SPECIFIED ANATOMICAL AREAS** - Means any of the following:

- (A) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or
- (B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITY** - Means activities, services or performances that include the following sexual activities and/or the exhibition of the following anatomical areas:

- (A) Human genitals in a state of sexual stimulation or arousal;
- (B) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function or the representation thereof; or
- (C) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- (D) Flagellation or torture in the context of a sexual relationship;
- (E) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (F) Erotic touching, fondling or other such contact with an animal by a human being;
- (G) Human excretion, urination, menstruation, vaginal or an irrigation as part of or in connection with any of the activities set forth in A through F, above.

**STREET** - A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property.

**STREET LINE** - A lot line dividing a lot from an abutting street.

**STRUCTURE** - Any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, and overhead transmission lines.

**TOWNHOUSE** - A one-family dwelling unit, with a private entrance, which is part of a structure of three or more dwelling units that are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation. (Same as Dwelling Attached.)

**TEMPORARY BUILDING**- A structure built on one or more permanent chassis and designed to be used for occupancy or storage with or without a permanent foundation. This includes any non site-built building designed so as to be capable of being moved to another site either as a single unit or as components.

**TRAVEL TRAILER** – A vehicular, portable structure designed as a temporary dwelling for travel, recreation, and vacation uses. (See also definitions for Mobile Home/Manufactured Home in this chapter, and Recreational Vehicle in ART VII, Section 7.020 of this Ordinance.) **(added by Ordinance 297, August 3, 2020)**

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

**USE AND OCCUPANCY PERMIT** - A written permit issued by the Zoning Administrator required before occupying or commencing to use any building or other structure or any zone lot.

**VEHICULAR USE AREA** - Vehicular use area as used in this ordinance shall mean any group surface area, except public right-of-way, used by any type vehicle whether moving or at rest for the purpose of driving, parking, loading, storage or display (automotive sale lots). Also included are activities of a drive-in nature in connection with banks, restaurants, filling stations and grocery stores.

**YARD** - An open space on the same lot with a building or building group lying between the front, rear, or side wall of a building and the nearest lot line, unoccupied except for projections and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.

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

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

**YARD REQUIRED** - That part of a zone lot extending open and unobstructed from the lowest level to the sky along the entire length of a lot line, and from a lot line equivalent for a depth of width set forth in the applicable regulations. Only such obstructions, projections and specific minor uses or structures allowed in such open space under the provisions of this ordinance may be permitted in any required yard.

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

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

- (A) A single lot of record;
- (B) A portion of a lot of record;
- (C) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records;
- (D) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

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

**ZONING ADMINISTRATOR** - The Director of Planning and Zoning as appointed by the City Council of the City of Burns, Tennessee or his authorized designee. Sometimes referred to by this ordinance as the Zoning Administrator.

**ZONING MAP** - A map or series of maps and special overlays (the official copy being maintained by the city recorder) showing districts and special districts that are established under the provisions of an, hereby, being a part of this ordinance.

**ZONING PERMIT** - A general term referring to a permit required to construct, reconstruct, alter or use any building or other structure or any zone lot and including the following specific permits required by this ordinance:

- (A) Building permit.
- (B) Use and occupancy permit.

## **2.030 USE CLASSIFICATION SYSTEM**

The provisions of this section shall be known as the use classifications. The purpose of these provisions is to classify land uses into a number of specifically defined types on the basis of common functional characteristics and similar compatibility with other uses, thereby with criteria which are directly relevant to the public interest. These provisions shall apply throughout the zoning regulations. Where there is a question concerning the appropriate activity classification for any use not listed herein, the Board of Zoning Appeals shall make the determination based upon the characteristics of the unlisted use.

### **A. Listing of Activity Classifications**

All activities are hereby classified into the following activity types:

#### **1. Residential Activities**

##### **a. Permanent**

Upper-Story Dwelling Unit  
Dwelling, Single Detached  
Dwelling, Duplex  
Dwelling, Mobile Home  
Dwelling, Multi-Family  
Mobile Home Park

##### **b. Semi-Permanent**

Boarding House  
Rooming House

#### **2. Community Facility Activities**

Administrative  
Community Assembly  
Community Education  
Cultural and Recreation Services  
Essential Service

Extensive Impact  
Health Care  
Intermediate Impact  
Personal and Group Care Facilities  
Religious Facilities

3. Commercial Activities

Animal Care and Veterinarian Services  
Automotive Parking  
Automotive Service and Repair  
Building Materials and Farm Equipment  
Consumer Repair Services  
Construction Sales and Services  
Convenience Commercial  
Entertainment and Amusement Services  
Financial, Consulting, and Administrative  
Food and Beverage Service  
Food Service - Drive-In  
General Business and Communication Services  
General Personal Service  
General Retail Trade  
Group Assembly  
Medical and Professional Services  
Self-Storage **(amended by Ordinance 2023-329, January 8, 2024)**  
Transient Habitation  
Undertaking Services  
Vehicular, Craft, and Related Equipment Sales,  
    Retail and Delivery  
Wholesale Sales

4. Manufacturing Activities

Limited  
Intermediate  
Extensive

5. Agricultural, Resources Production, and Extractive Activities

Agricultural Services  
Commercial Feed Lots and Stockyards  
Crop, Animal and Poultry Raising  
Mining and Quarrying  
Plant and Forest Nurseries

B. Accessory Uses

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity. The accessory uses permitted are presented with the regulation section of each district as set forth in this zoning ordinance.



C. Residential Activities

1. Permanent Residential

The occupancy of living accommodations on a monthly or longer basis with none of the living units under the same ownership or management on the same zone lot being occupied on a less-than-monthly basis. This shall not include institutional living arrangements involving the provision of any kind of special care or forced residence such as nursing homes, orphanages, asylums, half-way houses or prisons, except as provided by general law of the state. The following dwelling types as defined by this ordinance are permanent residential activities; however, only those dwelling types as indicated by individual district regulations may be permitted therein.

Dwelling, Single Detached  
Dwelling, Duplex  
Dwelling, Mobile Home  
Dwelling, Multi-Family (apartment, townhouse)  
Mobile Home Park

2. Semi-Permanent Residential

The occupancy of living accommodations 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 under the same ownership or management on the same zone lot being occupied on a less-than-monthly basis. This shall not include institutional living arrangements involving the provision of a special kind of care or forced residence, such as nursing homes, orphanages, asylums, half-way houses, and prisons, except as provided by general law of the state. The following dwelling or rooming unit types as defined by this ordinance are considered as semi-permanent residential activities; however, only those dwelling or rooming unit types as indicated by individual district regulations may be permitted therein.

Boarding House  
Rooming House

D. Community Facility Activities

1. Administrative Services

The activities typically performed by public, utility, and nonprofit private administrative offices. These activities would include:

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

2. Community Assembly

The activities typically performed by or at institutions and installations for various social, athletic, and recreational purposes. These activities do not include facilities primarily utilized for profit. They would include:

Civic, Social, Fraternal, and Philanthropic Associations  
Private (nonprofit) Clubs, Lodges, Meeting Halls, and  
Recreation Centers  
Temporary Nonprofit Festivals

3. Community Education

The activities typically performed by the following institutions:

Public and Private Nursery Schools  
Kindergarten, Primary and Secondary Schools

4. Cultural and Recreational Services

The activities of a cultural or recreational nature which are either owned by, or operated for the use and enjoyment of, the general public. This does not embrace such facilities which are privately owned and operated for profit. These activities would include:

Art Galleries  
Libraries  
Museums  
Parks, Playgrounds, and Playfields  
Planetariums and Aquariums  
Recreational Centers and Gymnasiums  
Swimming Pools and Beaches  
Zoological and Botanical Gardens

5. Essential Services

Includes the maintenance and operations of the following installations:

Electrical and Gas Substations  
Electrical, Gas, Water, and Sewer Distribution and  
Collection Lines  
Public Transport, Utility and Communication Towers  
Pumping Facilities for Water and Sewer Systems  
Rights-of-Way for Transportation Modes  
Telephone Switching Facilities

6. Extensive Impact Facilities

The activities that have a high degree of impact upon surrounding land uses due to their hazards or nuisance characteristics, as well as traffic generation, parking, and land requirements and typically performed by, or the maintenance and operation of, the following institutions and installations:

Major Fuel Transmission Lines and Facilities

Major Mail Processing Centers  
Military Installations  
Public and Private Utility Corporations and  
Truck Yards, Including Storage Yards  
Railroad Yards and Other Transportation  
Equipment Marshalling and Storage Yards

7. Health Care Facilities

Includes the activities typically performed by the following institutions but not including the offices, clinics, etc., of private physicians or other health care professionals:

Centers for Observation or Rehabilitation  
Convalescent Homes  
Hospitals  
Medical Clinics

8. Intermediate Impact Facilities

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

Cemeteries, Columbariums, and Mausoleums  
Colleges, Junior Colleges, and Universities,  
but Excluding Profit-Making Business Schools  
Commercial Boat Docks, Marinas, and Yacht Clubs  
Country Clubs  
Golf Courses  
Radio and TV Transmission Facilities  
Water Storage Facilities, Water and  
Sewage Treatment Plants

9. Personal and Group Care Facilities

The activities and facilities to provide for the care of children, disabled and handicapped persons needing special care or supervision, care for the elderly and other individuals requiring supervised care, but excluding facilities for delinquent, criminally dangerous, or psychotic people. These activities would include:

Associations for Physically or Mentally  
Handicapped Persons  
Day Care Centers  
Drop in Center  
Family Child Care Home  
Group Child Care Home  
Group Homes for Physically or Mentally  
Handicapped Persons  
Nursing Homes  
Orphanages  
Retirement or Rest Homes

10. Religious Facilities

The activities or facilities utilized by various religious organizations for worship or community service functions but excluding any facility the primary functions of which is to produce products or printed matter for sale or general distribution. The activities include:

Chapels  
Churches  
Convents or Monasteries  
Parsonage  
Sanctuaries  
Synagogues  
Temples

E. Commercial Activities

1. Animal Care and Veterinarian Services

Include the provision of animal care, treatment, and boarding services.

Veterinarian Clinics and Kennels

2. Automotive Parking

Includes the parking and/or storage of motor vehicles but excluding junk or scrap vehicles.

Auto Parking Lots  
Parking Garages

3. Automotive Services and Repair

Includes the sale, from the premises, of good and the provision of services which are generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs, as well as clean-up, painting and repair of automotive vehicles, including body work and installation of accessories.

Auto Cleaning and Repair Services  
Auto Glass Repair and Replacement Shops  
Auto Inspection and Diagnostic Services  
Auto Paint Shops  
Auto Towing Services  
Car Washes  
Gasoline, Fuel, and Oil Sales and Service  
Radiator and Muffler Shops  
Tire Retreading and Repair Shops  
Wheel Alignment and Transmission Repair Shops

4. Building Materials and Farm Equipment

Includes the retail and wholesale sales and storage of materials used in the construction of buildings and other structures as well as the retail and

wholesale sale and storage of implements, equipment, feed and seed used in agricultural pursuits.

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

5. Consumer Repair Services

Include the servicing and repair of appliance, furniture, and equipment generally used or owned by individuals, not including the repair of any type of automobile.

Blacksmith Shops  
Electrical Repair Shops  
Gunsmith Shops  
Instrument Repair Shops  
Lawn Mower Repair Shop  
Locksmith Shops  
Office Equipment Cleaning and Repair  
Reupholstery and Furniture Repair  
Saddlery Repair Shops  
Watch, Clock, and Jewelry Repair

6. Construction Sales and Services

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

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

7. Convenience Commercial

Includes the retail sale, from the premises, of groceries, drugs, and other frequently needed personal convenience items, as well as the provision of personal convenience services which are typically needed frequently or recurrently, provided that no establishment shall exceed five thousand (5,000) square feet of gross floor area.

Barber Shops

Beauty Shops  
Drug Stores  
Fruit and Vegetable Markets  
Grocery Stores  
Hardware Store (no outside storage)  
Laundry and Dry Cleaning Pick-up Stations  
Liquor Stores  
News Stands  
Self-Service Gasoline Pumps  
Tobacco Shops

8. Entertainment and Amusement Services

Include the provisions of cultural, entertainment, educational, and athletic services, other than those classified as Community Facility Activities, to assembled groups of spectators or participants.

Art Galleries (Commercial)  
Batting and Golf Driving Ranges  
Bowling Alleys and Billiard Parlors  
Coin Operated Amusement Arcades  
Dance Halls and Studios  
Exhibition Halls and Auditoriums  
Recording and TV Production Services  
Skating Rinks  
Theaters  
Theatrical Producers, Bands, Orchestras, and  
Entertainers

9. Financial, Consulting, and Administrative Services

Include the provision of financial, insurance, and real estate brokerage services, as well as advice, designs, information, or consultations of a professional nature (other than those classified as Community Facility Activities, Medical and Professional Service, or Business and Communication Services). These also include the executive, management, or administrative activities of private, profit oriented firms, but exclude the sale and/or storage of goods or chattel unless otherwise permitted by this ordinance.

Agricultural Credit Institution  
Banking and Bank-Related Functions  
Credit Unions  
Holding and Investment Organizations  
Insurance Carriers, Agents, Brokers, and Service  
Money Management and Investment Offices  
Real Estate Brokers, Managers and Appraisers  
Rediscount and Financing Institutions for Credit Agencies  
Other Than Banks Savings and Loan Associations  
Securities Commodities, Brokers, Dealers, and Exchanges  
Title Offices

10. Food and Beverage Service

Include the retail sale of prepared food or beverages for primarily on-premises consumption within the principal structure on the zone lot.

Restaurants  
Taverns

11. Food Service Drive-In

Includes the retail sale of prepared food or beverages for either home or on premises consumption either within the principal structure or within a parked car on the same zone lot.

Drive-In Restaurants  
Fast Food Restaurants with Drive-Thru Service

12. General Business and Communication Services

Include the provision of service of a clerical, goods brokerage, and communications of a minor processing nature, copying and blueprinting services, custom printing (except books) but include the sale and/or storage of goods and chattel unless otherwise permitted by this ordinance.

Advertising Agencies and Services  
Commercial Cleaning Services  
Commercial Testing Laboratories  
Communications Services:  
    Radio and Television Broadcasting Studios  
    Telegraph Offices and Message Centers  
    Telephone Exchanges and Relay Towers  
    Television and Recording Production Studios  
Computer and Data Processing Services  
Credit Reporting, Adjustment, and Collection Agencies  
Detective Agencies and Protective Services  
Drafting Services  
Employment, Personnel, and Temporary Help Services  
Exterminating Services  
Interior Decorator and Consulting Services  
Mailing, Reproduction, and Commercial Art Services  
Management, Consulting, and Public Relations Services  
Membership Organizations:  
    Automobile Clubs  
    Better Business Bureaus  
    Chamber of Commerce  
    Labor Unions  
    Political Organizations  
    Professional Associations  
News Syndicates  
Photofinishing Services  
Research and Development Laboratories  
Self-Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Trading Stamp Services  
Travel Agencies  
Vehicular and Equipment Rental and Leasing Services

13. General Personal Service

Include the provision to individuals of informational and instructional services as well as the provision of care and maintenance for personal items. These activities do not include the storage or sale of goods or chattel unless otherwise permitted herein.

Catering Services  
Clothing Rental Agencies  
Health Spas  
Laundry, Cleaning, and Garment Services  
Miscellaneous Personal Services  
Photographic Studios  
Shoe Repair and Hat Cleaning Shops  
Special Training and Schooling Services:  
    Art and Music Schools  
    Barber and Beauty Schools  
    Business Schools  
    Dancing Schools/Exercise Studios  
    Driving Schools

14. General Retail Trade

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

Antique and Second Hand Merchandise Stores  
Automotive Parts (no exterior storage)  
Book and Stationery Stores  
Camera Stores  
Candy, nut and Confectionery Stores  
Children's and Infant's Stores  
Dairy Products Stores  
Department Stores  
Drapery, Curtain, and Upholstery Stores  
Drug Stores and Proprietary Stores  
Family Clothing Stores  
Floor Covering Stores  
Florists  
Fruit Stores and Vegetable Markets  
Furniture Stores  
Furriers and Fur shops  
Gift Shops  
Grocery Stores  
Hardware Stores  
Hobby, Toy, and Game Stores  
Household Appliance Stores  
Jewelry Stores  
Liquor Stores  
Luggage Shops  
Meat and Seafood Markets  
Men's and Boy's Clothing and Furnishing Stores



Miscellaneous Apparel and Accessory Stores:

- Bathing Suit Stores
- Custom Tailors
- Sports Apparel Stores
- Uniform Stores

Miscellaneous General Merchandise Stores:

- Direct Selling Organizations
- Mail Order Houses

Miscellaneous Home Furnishings Stores:

- Bedding and Linen Stores
- Cookware Stores
- Cutlery Stores
- Glassware and China Shops
- Lamp and Shade Shops
- Paint and Wallpaper Stores

Music Stores

News Stands

Radio and Television Stores

Retail Bakeries

Sewing and Piece Goods Stores

Shoe Stores

Sporting Goods Stores

Tobacco Shops

Variety Stores

Women's Accessory and Specialty Stores

Women's Read-to-Wear Store

15. Group Assembly

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

Amusement Parks

Commercial Camp Grounds

Commercial Resorts

Commercial Sports Arenas and Playing Fields

16. Medical and Professional Services

Includes the provision of therapeutic, preventive, or corrective personal treatment services by physicians, dentists, and other practitioners, as well as testing and analysis and the offices of various other professionals, the service of which is provided in an office environment.

Accounting, Auditing, and Bookkeeping Services

Artist Studios (Excluding Commercial Artists)

Attorneys and Law Offices

Chiropractor Offices

Consulting Scientists

Dental Offices and Laboratories

Educational and Scientific Research Services

Engineering and Architectural Services

Optometrists  
Physicians' Offices and Clinics (Out Patient Services)  
Physiologists and Psychotherapists  
Songwriters and Music Arrangers  
Urban Planning Services  
Writers and Lecturers

17. Transient Habitation

Includes the provision of lodging services to transient guests, having at least seventy (70) percent of its accommodation available on a less-than-weekly basis, other than those classified as residential activities.

Hotels  
Motels  
Tourist Courts

18. Transport and Warehousing

Includes the provision of warehousing, storage, freight handling, shipping, and trucking services.

Bus and Truck Maintenance and Repair  
Food Lockers  
Bulk Storage/Warehousing (**amended by Ordinance 2023-329, January 8, 2024**)  
Household Goods Storage Packing and Creating Services  
Railroad, Bus and Transient Terminals  
Refrigerated Warehousing  
Truck Terminals Freight Handling Services

19. Undertaking Services

Include the provision of undertaking and funeral services involving the care and preparation of the human deceased prior to burial.

Funeral and Crematory Services

20. Vehicular, Craft, and Related Equipment

Includes the retail or wholesale sale or rental from the premises of vehicular and related equipment with incidental maintenance.

Boat and Motor Dealers  
Mobile Home Dealers  
Motor Vehicle Dealers  
Motorcycle Dealers  
Recreational Vehicle and  
Utility Trailer Dealers

21. Wholesale Sales

Includes the storage and sale from the premises of goods to other firms for resale, as well as the storage of goods and their transfer to retail outlets; but

exclude sale or storage of motor vehicles, except for parts and accessories.  
These would include such uses as:

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

F. Manufacturing Activities

Manufacturing activities include the on-site production of goods by methods other than agricultural or extractive in nature.

1. Limited Manufacturing Activities

Include the following operations:

- a. The manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of the following products:

Apparel and Accessories  
Art Objects  
Bakery Goods  
Beverages  
Dairy Products  
Instruments for Scientific, Medical,  
Dental, Engineering, and Other  
Professional Purposes  
Optical Instruments and Lens  
Printed Matter  
Signs

- b. Activities and operations which include the following:

Book Binding  
Data Processing Service

Photocopying  
Photoengraving  
Precision Machining of Dies, Jigs, and Fixtures  
Printing  
Publishing  
Record Pressing  
Upholstering  
Welding

2. Intermediate Manufacturing Activities

Include the following:

- a. The manufacture, compounding, processing, assembling, packaging, treatment or fabrication of products, except for the following:

Cotton Seed Oil  
Explosives  
Fireworks  
Organic Fertilizers

- b. Other activities and operations, except for the following:  
**(amended by Ordinance 215, May 3, 2010)**

Abrasive, Asbestos, and Metallic Mineral Processing  
Arsenals  
Asphaltic Cement Plants  
Atomic Reactors  
Automobile Wrecking Yards, Scrap and  
Waste Materials  
Cement and/or Concrete Plants  
Chemical Manufacturing in Excess of  
One (1) Ton per Day  
Cotton Ginning  
Fat Rendering  
Foundries  
Grain Milling  
Junk Yards  
Offal Processing  
Ore Reduction  
Paper Mills  
Petroleum Refining  
Pulp Manufacturing  
Rolling and Finishing of Ferrous Materials  
Slaughtering of Animals  
Smelting and Refining of Metals and Alloys  
Solid waste Landfills (generated on site only)  
Steel Works (other than those listed)  
Tanning

3. Extensive Manufacturing Activities

Include all intermediate manufacturing activities (described above) and the exceptions listed above, except as follows:

Arsenals  
Atomic Reactors  
Biosolids - Handling and Distribution  
Explosives Manufacturing and Storage  
Fireworks Manufacturing  
Hazardous Wastes Storage and/or Transfer  
Radioactive Waste Handling  
Solid Waste Landfills  
Solid Waste Processing and Recycling  
Waste Incinerators, Including Hospital and  
Medical Waste

The above exceptions are Special Impact Facilities and are permitted only as such in the appropriated district.

G. Agricultural, Resources Production, and Extractive Activities

1. Agricultural Services

Include various activities designed to provide needed services for agricultural uses and are appropriately located in close proximity thereto.

Crop Drying, Storage, and Processing  
Crop Planting, Cultivating, and Protection Services  
Horticultural Services  
Livery Stables  
Riding Stables  
Soil Preparation Services

2. Commercial Feed Lots and Stockyards

Include facilities and operations involved in the storage and feeding (other than pasture grazing) of animals for resale or slaughter.

3. Crop and Animal Raising

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

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

4. Plant and Forest Nurseries

Includes the cultivation for sale of horticultural specialties, such as flowers, shrubs, and trees, intended for ornamental, landscaping, or tree planting purposes.

Forest Nursery  
Plant Nursery

H. Special Impact Facilities

Airports, Air Cargo Terminals, Heliports, or  
Other Aeronautical Devices  
Arsenals  
Atomic Reactors  
Biosolids - Handling and Distribution  
Bulk Storage/Warehousing (**amended by Ordinance 2023-329, January 8, 2024**)  
Correction and Detention Institutions  
Electricity Generating Facilities and  
Transmission Lines  
Explosives Manufacturing and Storage  
Fireworks Manufacturing  
Garbage Incineration Plants, Including  
Cogeneration Facilities; Sanitary Landfills  
Hazardous Wastes Storage and/or Transfer  
Radioactive Waste Handling  
Solid Waste Landfills  
Solid Waste Processing and Recycling  
Waste Incinerators, Including Hospital and  
Medical Waste

## **ARTICLE III**

### **GENERAL PROVISIONS**

#### **SECTION**

- 3.010 Scope
- 3.020 Only One (1) Principal Building on Any Residential Lot
- 3.030 Lot Must Abut a Public Street
- 3.040 Reduction in Lot Area Prohibited
- 3.050 Rear Yard Abutting a Public Street
- 3.060 Corner Lots
- 3.070 Future Road Lines
- 3.080 Obstruction to Vision at Street Intersection Prohibited
- 3.090 Access Control
- 3.100 Accessory Use Regulations
- 3.110 Landscaping and Buffer Strips
- 3.120 Party Walls
- 3.130 Site Plan Requirements
- 3.140 Relationship to Design Review Manual

#### **3.010 SCOPE**

For the purpose of the zoning ordinance, the following general provisions shall apply, except as specifically noted, to the city as a whole.

#### **3.020 ONLY ONE (1) PRINCIPAL BUILDING ON ANY RESIDENTIAL LOT**

Only one (1) principal building and its accessory structures may, hereafter, be erected on any residential zone lot. This provision shall not apply to group housing developments and mobile home parks as permitted in this ordinance.

#### **3.030 LOT MUST ABUT A PUBLIC STREET**

No building shall be erected on a lot which does not abut at least one (1) publicly maintained road for at least fifty (50) feet. This section shall not apply to residential properties in a residential district abutting a cul-de-sac, which shall be at least forty (40) feet; or to those with an easement of at least fifty (50) feet in width to a public maintained road; provided, however, that when a permanent easement to public maintained road is used as access to a lot or tract of land having been separated by deed from other acreage, such easement shall not be used also to provide access to an additional lot or tract; unless the developer declares a subdivision, constructs the road to meet Burns Subdivision Regulations, and dedicates it to the town.

#### **3.040 REDUCTION IN LOT AREA PROHIBITED**

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

No part of any yard or other open space or automobile storage area or loading or unloading space provided about any building for the purpose of complying with these regulations shall be considered as providing such space similarly required for any other structure.

### **3.050     REAR YARD ABUTTING A PUBLIC STREET**

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

### **3.060     CORNER LOTS**

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

### **3.070     FUTURE ROAD LINE**

For the purpose of providing adequate space for the future widening of roads, required setbacks, or front yards, shall be determined by the right-of-way as shown on the latest official Burns Major Thoroughfare Plan.

### **3.080     OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED**

In all districts, on a corner lot within the area formed by the center lines of intersecting roads and a line joining points on such center lines at a distance of ninety (90) feet from the intersection, there shall be no obstruction to vision between a height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each road at the center line thereof. This section shall not be deemed to prohibit any necessary retaining wall.

### **3.090     ACCESS CONTROL**

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

- A.     A point of access for vehicles onto a street shall not exceed thirty (30) feet in width. In nonresidential districts, vehicular service uses may be permitted points of access exceeding thirty (30) feet, but not exceeding forty (40) feet in width providing that they do not exceed fifty (50) percent of their respective road frontage.

All points of access shall be constructed as to provide for proper drainage.

- B.     There shall be no more than two (2) points of access to any one public street for each five hundred (500) feet of lot frontage, or fraction thereof, provided, however, that lots with less than one hundred fifty (150) feet of road frontage shall have no more than one point of access to any one (1) public street.
- C.     No point of access shall be allowed within forty (40) feet of the right-of-way line of a public intersection on minor streets, fifty (50) feet for collector streets, and seventy-five (75) feet of an arterial roadway. An intersection of two (2) different street classifications shall restrict access to both streets to the distance required of the larger classification.



- D. No curbs, or shoulders on town streets or rights-of-way shall be cut or altered without approval of the Burns Street Superintendent, or if a state highway, a permit must be obtained from the Tennessee Department of Transportation.
- D. Where two (2) driveways are provided for one (1) lot frontage, the clear distance between the driveways shall not be less than fifty (50) feet for minor streets, seventy-five (75) feet for collector roadways, and one hundred (100) feet for arterial roadways.
- E. The Planning Commission, the Burns Street Superintendent, or other departments of the Town of Burns may require that a traffic study be conducted for any development to insure the safety of the public and to maintain the capacity of the roadway. Any off site improvement deemed necessary by such study such as turn lanes or traffic signals shall be provided for by the developer.
- F. The Planning Commission and/ or the Burns Street Superintendent may require that permitted intersections be located at specific locations in order to maximize sight distance and visibility and to coordinate with existing or planned driveway, roadway, or traffic signal locations.
- G. Cases requiring variances relative to the above provisions due to topographic limitations shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangement would require that vehicles back directly into a public street.

### **3.100 ACCESSORY USE REGULATIONS**

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

- A. Be customarily incidental to the principal use established on the same lot.
- B. Be subordinate to and serve such principal use.
- C. Be subordinate in area, intent, and purpose to such principal use.
- D. Contribute to the comfort, convenience, or necessity of users of such principal use.

### **3.110 LANDSCAPING AND BUFFER STRIPS**

All sites shall be landscaped and install buffer strips as per the Burns Design Review Manual.

### **3.120 PROVISIONS FOR PARTY WALLS**

In all districts, except A-1, RE, and R-1, a building may be so constructed on two (2) or more lots so as to utilize a party wall or walls lawfully erected under the terms of this ordinance.

- A. If a building is so constructed, the side and/or rear yard requirements shall be waived along the boundary of the lot coincident with the said party wall(s), and one side yard shall be provided along any side lot line where a party wall is not so utilized, and any such side yard shall meet the minimum width for the district in which it is located.

### **3.130 SITE PLAN REQUIREMENTS**

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

- A. Proposals for the construction or location of one or more principal structures, buildings, or additions on a lot (with the exception of single-family and two-family dwellings located on a single lot) shall be submitted at a scale no smaller than 1" = 100' and indicate:
  - 1. The actual shape, location and dimensions of the lot.
  - 2. The shape, size, location of all buildings or other structures to be erected, altered, or moved, and any building or other structure already on the site.
  - 3. The existing and intended use of the lot and all such structures upon it, including the number of dwelling units for multi-family residential buildings.
  - 4. Topographical features.
  - 5. Location of driveways and entrances.
  - 6. Location of all off-street parking areas.
  - 7. Location of all off-street loading berths.
  - 8. Location of any proposed outdoor sales and display areas.
  - 9. Building setbacks and other yard requirements, floor area, and building heights.
  - 10. Position of fences and walls (material specified).
  - 11. Location of areas subject to flooding.
  - 12. Proposed means of surface drainage.
  - 13. Location, type, and size of proposed signs.
  - 14. Location of all easements and rights-of-way.
  - 15. Location and availability of servicing utilities.

16. A landscaping plan containing the following;
  - a. Approximate tree masses and existing hedgerows.
  - b. Approximate location and identification of trees fifteen (15) inches in caliper or larger measured 6 inches above the ground.
  - c. Proposed landscaping features (including type of planting specified)

B. Expiration of Site Plan Approval

From the date a site plan is approved construction must begin within a twenty-four (24) month period. If no construction has taken place during this period the site plan becomes null and void and a new site plan must be submitted to the Burns Planning Commission for review and approval before construction may occur.

**3.140 RELATIONSHIP TO DESIGN REVIEW MANUAL**

All development projects governed by the Town of Burns Design Review Manual shall meet the specifications and criteria of this Zoning Ordinance as well as those of the Design Review Manual. In any case where there may be a difference in standards or criteria the more stringent, as determined by the Burns Municipal Planning Commission, shall apply.

## ARTICLE IV

### SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

#### SECTION

- 4.010 Off-Street Parking Requirements
- 4.020 Off-Street Loading and Unloading Requirements
- 4.030 Temporary Use Regulations
- 4.040 Gasoline Service Station Restrictions
- 4.050 Swimming Pool Restrictions
- 4.060 Development Standards for Group Housing Projects
- 4.070 Standards for Signs, Billboards, and Other Advertising Structures
- 4.080 Development Standards for Mobile Home Parks
- 4.090 Development Standards for Automobile Wrecking, Junk and Salvage Yards
- 4.100 Development Standards for Cemeteries
- 4.110 Development Standards for Telecommunication Antennas and Towers
- 4.120 Standards for Cluster Residential Developments
- 4.130 Standards for Automotive Services and Repair Establishments
- 4.140 Standards for Mobile Homes Located on Individual Lots
- 4.150 Development Standards for Self-Storage

#### **4.010 OFF-STREET PARKING REQUIREMENTS**

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

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

- G. **Manufacturing, Industrial or Wholesaling Use:** Not less than one (1) space for each two (2) employees anticipated during maximum production, with a minimum of five (5) spaces provided for any establishment. For establishments maintaining space for the sale of products at retail, there shall be provided one (1) parking space for each five hundred (500) square feet of floor area devoted to retail sales.
- H. **Office and Professional Buildings:** Not less than one (1) parking space for each two hundred-fifty (250) square feet of office space, or fraction thereof.
- I. **Retail Sales and Service Establishments:** Not less than one (1) parking space for each two hundred (200) square feet, or fraction thereof, of floor space.
- J. **Medical or Dental Clinic:** Not less than four (4) spaces per doctor, plus one (1) additional space for each employee.
- K. **Service Stations:** Not less than five (5) spaces for each grease rack or service bay, or one (1) space for each fifteen hundred (1,500) square feet of lot area of fraction thereof, whichever is greater.
- L. **Restaurants:** Not less than one (1) space per one hundred fifty (150) square feet of floor area, plus one (1) space for each two (2) employees. For drive-in restaurants, one (1) space per one hundred (100) square feet of floor area, plus one (1) space for each two (2) employees.
- M. **Shopping Centers:** Five and one-half (5 1/2) parking spaces for each one thousand (1,000) square feet of gross floor area.
- N. **Other Structures or Uses Customarily Requiring Automobile Storage Areas:** For buildings and uses not listed, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

#### **4.011 Certification of Minimum Parking Requirement**

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

#### **4.012 Combination of Required Parking Spaces**

The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking spaces required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

#### **4.013 Requirements for Design of Parking Lots**

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

- (2) Each parking space shall be no less than one hundred sixty-two (162) square feet in area and nine feet x eighteen feet (9' x 18').
- (3) Entrances and exits for all off-street parking lots shall comply with the requirements of Section 3.090, of this ordinance.
- (4) The parking lot shall be designed in such a manner as to provide adequate drainage and to eliminate the possibility of stagnant pools of water.
- (5) All parking areas, access drives, and maneuvering areas, except for those of one and two-family dwellings shall be suitably paved with an all weather wearing surface and dustless material. However, the Board of Zoning Appeals may permit gravel surfaces in the BP and I-2 Districts provided that it can be demonstrated that doing so would cause no adverse effects to adjacent property.
- (6) Parking lot access points and internal drives shall be so designed so as to minimize conflict points. Landscaping and or curbs shall be used to formalize drive areas and minimize conflict points. Likewise, drives providing ingress/egress to public streets shall remain channeled for the following distances as measured from the roadway:

**30 feet for 25 spaces or less**  
**40 feet for 25-50 spaces**  
**50 feet for 50-100 spaces**  
**50 feet or greater as determined by**  
**a traffic study for 101 spaces or more**

#### **4.020 OFF-STREET LOADING AND UNLOADING REQUIREMENTS**

Every building or structure hereafter constructed and used for industry, business, or trade involving the receiving or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public or private alley, or if there is no alley, to a public street. The minimum required spaces for this provision shall be based on the total usable floor area of each principal building according to the following table:

<b><u>Total Usable Floor Area for Principal Building</u></b>	<b><u>Spaces Required (See Article II, for Definition)</u></b>
<b>0 to 4,999 sq. ft.</b>	<b>One (1) space</b>
<b>5,000 to 9,999 sq. ft.</b>	<b>Two (2) spaces</b>
<b>10,000 to 14,999 sq. ft.</b>	<b>Three(3) spaces</b>
<b>15,000 to 19,999 sq. ft.</b>	<b>Four (4) spaces</b>
<b>Over 20,000 sq. ft.</b>	<b>Four (4) spaces, plus one (1) space for each additional 20,000 sq. ft.</b>

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

#### **4.030 TEMPORARY USE REGULATIONS**

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

- A. **Carnivals or Circus:** May obtain a Temporary Use Permit in the commercial districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall be permitted on lots where adequate off-street parking can be provided.
- B. **Limited Duration Goods and Merchandise:** May obtain a thirty (30) day Temporary Use permit for the display and sale of limited duration goods and merchandise on open lots in any district.
- C. **Temporary Buildings:** In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year, but may be renewed for six (6) month extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.

In Commercial and Manufacturing Districts, a Temporary Use Permit may be issued to allow a Temporary Building as defined by this ordinance to be used for any use permitted in the district for a period of no more than eighteen (18) months.
- D. **Real Estate Sales Office:** In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved by the planning commission under the Burns Subdivision Regulations. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2), six (6) month extensions. Such office shall be removed upon completion of sales of the lots therein, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
- E. **Religious Tent Meeting:** In any district, a Temporary Use Permit may be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.
- F. **Seasonal Sale of Farm Produce:** In any district, except the industrial district, a Temporary Use Permit may be issued for the sale of farm produce grown on the premises. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five (5) month period. All structures must be set back from the right-of-way.
- G. **Temporary Dwelling Unit in Cases of Special Hardship:** In any residential district, a Temporary Use Permit may be issued to place a mobile home (double- wides excluded) temporarily on a lot in which the principal structure was destroyed

by fire, explosion or natural phenomenal. The purpose of such placement temporarily shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Water Authority of Burns County approving the water supply and sewage disposal systems of the temporary structure. Such a permit may be initially issued for twelve (12) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of twenty-four (24) months.

- H. **Temporary Manufacture of Road Materials:** In any district, except the residential districts, a Temporary Use Permit may be issued upon approval by the Burns Board of Zoning Appeals to operate manufacturing plants which are necessary in order to produce the materials required for the construction of approved public streets where the Board finds that such a use is not potentially noxious, dangerous, or offensive. In the exercise of its approval, the Board of Zoning Appeals may impose such conditions upon the proposed plants as it may deem advisable in the furtherance of the general purposes of this ordinance.

Such a permit may be initially issued for a twelve (12) month period. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of twenty-four (24) months.

- I. **Temporary Dwelling Units in Case of Medical Necessity: (added by Ordinance 266, October 2, 2017)**

In any residential district, a Temporary Use Permit may be issued to place a mobile home upon a lot that already contains a principal residential structure. The purpose of such temporary use shall be to make it possible for a resident to provide assistance in the form of medical care and/or related personal assistance to another person(s) who, due to age and/or medical condition, requires continual medical attention or assistance in conducting the affairs associated with daily living. It is intended that living arrangements, as to which unit is occupied by whom, shall be at the option of the individuals providing and receiving care. It is further intended that this activity shall be restricted solely to the intended function of giving and receiving medical and/or personal care and that such activity shall in no way be expanded so as to meet the definition of any activity included within the "Health Care Facilities or the Personal and Group Care Facilities" use classifications. The temporary residence shall be treated as a conditional accessory use.

Placement of such temporary structure shall adhere as closely as possible to the setback requirements of the zoning district wherein such use is located. An applicant for a temporary use permit permitted under this subsection must produce the following to the Board:

1. a written statement from a physician indicating that such care is required;
2. proof that appropriate provisions have been made for water supply and sewage disposal for the temporary structure; and
3. an instrument to be recorded in the County Register's Office covenanting that the mobile home is being established as a conditional accessory use, that such use may only be used under the conditions listed above, and that the mobile home



shall be removed from the site upon termination of the original conditions for which such permit was issued.

Any permit issued under the authority of this subsection shall be examined periodically to assure that the use for which the permit was issued continues to exist and that all conditions of the permit are being complied with. Such permit may be initially issued for eighteen (18) months, and which may be renewed for six (6) months at a time, subject to producing a new statement from a physician certifying that the assistance is still required due to the disabling condition. The temporary permit shall be revoked and the structure removed immediately upon expiration of the permit or upon a change in the conditions under which such permit was issued.

#### **4.040 GASOLINE SERVICE STATION RESTRICTIONS**

The following regulations shall apply to all gasoline services stations:

- A. There shall be a building setback from all street right-of-way lines of a distance of not less than fifty (50) feet, except for canopies designed to cover the gasoline pump islands.
- B. Gasoline pumps and canopies shall not be located closer than fifteen (15) feet to any right-of-way line.

#### **4.050 SWIMMING POOL RESTRICTIONS**

The following regulations shall apply to all swimming pools:

- A. No swimming pool or part thereof, excluding aprons, walks, shall protrude into any required front yard in the residential districts.
- B. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or adjacent properties. Such fencing shall comply with the currently adopted building codes as to height and design for this purpose.
- C. Private swimming pools are permitted in residential and commercial districts provided that the pool is intended, and is to be used solely for the enjoyment of the occupants and their guests of the property on which it is located.

#### **4.060 DEVELOPMENT STANDARDS FOR GROUP HOUSING PROJECTS**

This procedure shall be used in the case of a group housing project of two (2) or more residential buildings to be constructed on a plot of ground not subdivided into the customary streets and lots, and which will not be so subdivided. The procedure applies to all proposals for multi-family (i.e., apartment and townhouse units) development whether such units are individually owned or held in common ownership. The reviewing agency for this plan is the planning commission.

##### **4.061 Procedure for Submission and Review**

A site development plan as specified in Article VIII, Section 8.030, shall be permitted for review on all proposals subject to this provision. The approval of said plan along with any accompanying conditions associated with a particular development is precedent to any approval under this section.

#### **4.062 Required Development Standards**

The following shall apply to all developments subject to this provision:

(1) **Location**

- (a) The site shall comprise a single lot or tract of land, except where divided by public streets.
- (b) The site shall abut a public street.

(2) **Density and Dimension**

- (a) The average number of dwelling units per acre of buildable land, not including streets, shall not exceed that permitted within the applicable district.
- (b) All yard requirements as established for the districts in which such use is permitted are applicable, except where buildings may be joined by common walls.

(3) **Design**

- (a) **Internal Drives:** The maximum grade on any drive shall be seven (7) percent, unless an alteration is specifically approved by the planning commission.
- (b) Where feasible, all drive intersections shall be at right angles.
- (c) Minimum distance between buildings shall be thirty (30) feet at any point.

(4) **Public Street Access**

- (a) The minimum distance between access points along public street frontage, center line to center line, shall be two hundred (200) feet.
- (b) The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred (100) feet.

(5) **Required Improvements**

- (a) **Internal Drives:** Specifications for drives in group housing developments shall conform to roadway specifications as specified by the Burns Municipal Planning Commission Subdivision Regulations to which reference is hereby made and incorporated herein by reference.
- (b) **Utilities:** The development shall be served with public utility systems adequate to assure fire protection and removal of liquid waste via a central sewage collection and treatment facility.
- (c) **Storage of Solid Waste:** Any central refuse disposal area shall be maintained in such manner as to meet Town health requirements, and shall be screened from view.

- (d) **Service Building:** Service buildings housing laundry, sanitation, or other facilities for use by occupants shall be permanent structures complying with all applicable codes.

**4.070 STANDARDS FOR SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES**

Signs are regulated by a freestanding Town of Burns Ordinance.

**4.080 DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS (amended by Ordinance 297, August 3, 2020)**

The following regulations are intended to ensure a minimum standard of site development for mobile home parks where permitted as a special exception in a zoning district.

A. **Mobile Home Park Building Permit**

1. The application for a "mobile home park permit" shall be filed with the Building Inspector after the applicant has secured all water and sewer permits required for the project. However, construction or extension of a mobile home park may not commence within the area of jurisdiction of this ordinance until a mobile home park building permit has been issued by the Building Inspector. The mobile home park building permit may be issued only upon approval of the site plan by the Planning Commission. Any variation or flexibility from the provisions provided below or any part of this Ordinance will require such action reviewed separately by the Burns Board of Zoning Appeals, in accordance with the requirements of ART VIII, Section 8.060 of this Ordinance.

2. **Site Plan Required**

A mobile home park building permit may only be issued for construction or extension of a mobile home park upon submission and approval by the planning commission of a site development plan, drawn at a scale no smaller than 1" = 100' by a licensed professional competent to design such plan, and containing the following information.

- a. The name and address of the applicant.
- b. The location, area, and dimensions of the proposed mobile home park site as well as a legal description.
- c. The location, size, and number of all mobile home spaces.
- d. The location and size of all buildings, improvements, and facilities (including roads, water, sewer, refuse disposal).
- e. The proposed use of buildings shown on the site plan.
- f. The location and size of all points of entry and exit for motor vehicles and the internal circulation plan (roadways and pedestrian walkways).
- g. The location and number of all off-street parking facilities.
- h. The location of park and recreation areas.

- i. A complete drainage plan with contour line intervals of five (5) feet.
- j. A location map showing the park site in relation to the existing public street pattern and indication of uses of property adjacent to the site and the location of all buildings within two hundred (200) feet of the site.
- k. A time schedule for development shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.
- l. Such other architectural, engineering, and topographical data as may be required to permit the county health department, the Zoning Administrator as defined and authorized by this Ordinance, and the planning commission to determine if the provision of these regulations are being complied with shall be submitted with the site plan.

B. Development Standards

1. General

- a. A mobile home park shall be located only within the MH zone where permitted.
- b. Access to the site shall be from a road classified as an arterial roadway on the Major Road Plan for Burns, specifically the portion of Hwy 47 as described in ART V, Section 5.036 of this Ordinance.
- c. No part of the park shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.
- d. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors or other adverse influences, and no portion subject to flooding or erosion and shall be used for any purpose which would expose persons of property to hazards.
- e. All mobile home park developments shall be required to connect to a public water system and a public sewer system. If no system is readily available, the applicant is required to provide extension and connection at their cost. The applicant shall be required to provide documentation that both public water and sewer shall be made available by the servicing utility, the Water Authority of Dickson County.

2. Minimum Development Size

No mobile home park shall be approved which contains less than eight (8) acres in area or has less than fifteen (15) mobile home spaces.

3. Dimensional Requirements for Parks

- a. Along the entire periphery of the mobile home park, yards and setbacks meeting the district regulations shall be provided.

- b. Within the interior portions of the mobile home park, no yards, except as required to meet other provisions set forth in this section, are required.
- c. No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty (30) feet.
- d. Each mobile home park shall be permitted to display, on each street frontage, one (1) identifying sign of a maximum size of twenty (20) square feet. Said sign(s) shall contain thereon only the name and address of the park and may be lighted by indirect lighting only.
- e. At no time shall the density for the park exceed the maximum permissible density for the district it is located in.

4. Spacing of Mobile Homes and Site Coverage

- a. Mobile homes shall be so harbored on each space that there shall be at least a twenty-five (25) foot clearance between mobile homes; for mobile homes parked end-to-end, the end-to-end clearance may be less than twenty-five (25) feet, but not less than fifteen (15) feet. No mobile home shall be located closer than twenty (20) feet from any building within the park.
- b. There shall be a minimum distance of ten (10) feet between the nearest edge of any mobile home and an abutting access street.
- c. Each mobile home stand shall not occupy an area in excess of twenty-five (25) percent of the respective lot area. The total area occupied by the mobile home and its accessory structures shall not exceed fifty (50) percent of the respective lot area.

5. The Mobile Home Lot

- a. **General:** The limits of each mobile home lot shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on accepted plans. No lot shall be smaller than five thousand (5,000) square feet.
- b. **Mobile Home Stands:** The mobile home stands shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. In addition, such stand shall comply with the publication of **FHA "Minimum Property Standards for Mobile Home Parks", May, 1977.**
- c. **Outdoor Living Area:** Each mobile home lot should be provided with an outdoor living and service area. Such area should be improved as necessary to assure reasonable privacy and comfort. The minimum area should be not less than two hundred (200) square feet and shall be paved.
- d. Tenant storage shall be provided for each mobile home at the rear of the mobile home space.

6. Utilities and Other Services

- a. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home development on trunk lines not less than six (6) inches. Where a public supply of water of satisfactory quantity, quality, and pressure is available at the site or at the boundary of the site, connection shall be made thereto and its supply used exclusively.
- b. Each mobile home site shall be provided with the connection to the sewer system reviewed and approved prior by the Water Authority of Dickson County.
- c. Solid waste collection stands shall be provided for waste containers for each mobile home. Any central waste container shall be screened from view with access appropriately provided.
- d. Service buildings housing sanitation and laundry facilities shall be permanent structures complying with all applicable ordinances and statutes, regulations, buildings, electrical installations, and plumbing and sanitation systems.
- e. Each mobile home park shall be equipped with fire hydrants spaced no more than five hundred (500) feet apart throughout the entire development for coverage to all structures. The water system shall be capable of providing a required fire flow of five hundred (500) gallons per minute for a one (1) hour duration.
- f. Each mobile home park shall be maintained free of litter and accumulation of any kind of debris which may provide rodent harborage or breeding places for flies, mosquitoes, or other pests.

7. Streets

Entrances to mobile home parks shall have direct connections to Hwy 47 E and shall be designed to allow free movement of traffic and clear of obstructions to view by motorists, pedestrians, and residents alike to provide safe and convenient vehicular access from the abutting public street to each mobile home lot by private internal streets and drives in accordance with the standards provided below.

a. Circulation

The internal street systems should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to five hundred (500) feet and their closed end shall be provided with an adequate turn-around with a minimum diameter of eighty (80) feet.

b. Pavement Widths

Pavement widths shall be as follows:

**Collector Street**

with no parking	20 ft.
with on-street parking	36 ft.

**Minor Street**

with no parking	18 ft.
with on-street parking	34 ft.

**One-Way Minor Street**

with no parking	12 ft.
with on-street parking	28 ft.

c. Construction

The internal streets and drives shall be paved in accordance with Town subdivision regulations.

8. Walks

All mobile home developments shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided.

A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3 1/2) feet.

All mobile home stands shall be connected to common walks, streets, driveways and parking spaces by individual walks. Such individual walks shall have a minimum width of two (2) feet.

9. Recreation Area

Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents.

Well-equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

10. Buffer and Screening

A landscape buffer shall be provided along the perimeter of the site boundaries not less than fifteen (15) feet in width, except that a minimum buffer area from any public street shall be no less than twenty (20) feet.

Within the landscaped buffer, a continuous fence six (6) to eight (8) feet high or landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

11. Site Design

The appearance 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. The planting plan shall be submitted with the site development plan.

12. Off-Street Parking

Paved off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks or on the mobile home lot. Such parking areas shall generally be located in close proximity to the dwellings units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of fifty (50) feet from the nearest entrance of the dwelling unit the space is to serve.

C. Responsibility of Park Management

1. The permittee shall operate the mobile home park in compliance with this ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The permittee shall notify park occupants of all applicable provisions of this ordinance and inform them of their duties and responsibilities under this ordinance.
3. The permittee shall supervise the placement of each mobile home on its mobile home stand to the satisfaction of the Zoning Administrator, as defined and authorized by this Ordinance, which includes securing its stability to anchor pins and installing all utility connections.
4. The permittee shall maintain a register containing the following information:
  - a. The name and address of each mobile home occupant.
  - b. The name and address of the owner of each mobile home and motor vehicle by which it was towed.
  - c. The make, model, year, and license number of each mobile home and motor vehicle.
  - d. The date of arrival and of departure of each mobile home.
5. The mobile home park shall keep the register record 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.
6. The register record shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.
7. The permittee shall notify the health authority immediately of any suspected communicable or contagious disease within the park.
8. The permit to operate shall be conspicuously posted in the mobile home park office at all times.



9. The permittee shall be answerable for the violation of any provision of this section.

D. Responsibilities of Park Occupants

1. The park occupants shall comply with all applicable requirements of this zoning ordinance and shall maintain his/her mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The park occupant shall be responsible for proper placement of the mobile home on its mobile home stand and proper installation of all utility connections and anchoring in accordance with the instruction of the park management.
3. Skirtings, awnings, and other additions shall be installed only if permitted and approved by the park management. When installed, they shall be maintained in good repair. The space immediately underneath each mobile home shall be used for storage only if permitted by the park management. If permitted, the following conditions shall be satisfied:
  - a. The storage area shall be provided with a base of impervious material.
  - b. Stored items shall be located so as not to interfere with the underneath inspection of the mobile home.
  - c. The storage area shall be enclosed by skirting.
4. The park occupant shall store and dispose of all rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent proof, insect proof, and watertight.
5. Fire extinguishers for Class B and C fires shall be kept at the premises and maintained in working condition.
6. No inoperative automobiles, junk, or non-contained trash shall be allowed within the park.

E. Inspections

1. The Zoning Administrator, as defined and authorized by this Ordinance, is hereby authorized and directed to make annual inspections to determine the conditions of mobile home parks, in order to insure the health and safety of occupants of mobile home parks and of the general public.
2. The Zoning Administrator shall have the power to enter upon any private and public property for the purpose of inspecting and investigating conditions relating to the annual inspection as it is related to the enforcement of this section.

3. Penalties

- a. Any person violating any provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense.
- b. Each day that a violation is permitted to exist shall constitute a separate offense.
- c. Any extension of an existing mobile home park is considered a noncomplying use and is hereby prohibited unless said park is brought up to the standards herein stated.

F. Revocation of Permit

The Zoning Administrator as authorized may revoke any permit to maintain and operate a park when the permittee has been found guilty by a court of competent jurisdiction of violating any provisions of this section. After such conviction, the permit may be reissued if the circumstances leading to conviction have been remedied and the park is being operated and maintained in full compliance with this section.

G. Prohibited Structures

- 1. Cabanas, travel trailers, and other similarly enclosed structures are prohibited.
- 2. Trailers with or without toilet facilities that cannot be connected to approved sewer systems shall not be permitted in a mobile home park.
- 3. Mobile homes shall not be used for commercial, industrial or other nonresidential uses within a mobile home park, except that one (1) mobile home in the park may be used to house a rental office.

**4.090 DEVELOPMENT STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS**

A site development plan specified in Article III, Section 3.130, shall be submitted for review on all proposals subject to this provision. The approval of said plan along with any accompanying conditions associated with a particular development is precedent to any approval under this section. The Burns Municipal Planning Commission is the agency responsible for this review.

Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics:

- A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

- B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than five hundred (500) feet from any established residential zone.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.
- E. **Off-Street Parking:** As regulated in Article IV, Section 4.010.
- F. **Ingress and Egress:** The number of vehicular access driveways permitted on any single street frontage shall be limited to:
  - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
  - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width maximum, exclusive of curb returns.
- G. No automobile wrecking, junk, or salvage yard shall be permitted within three hundred (300) feet of any public street in Burns, except where a more stringent State or Federal law applies.

#### **4.100 DEVELOPMENT STANDARDS FOR CEMETERIES**

- A. **The Following Standards Shall Be Imposed upon the Development and Construction of Cemeteries in Burns:**
  - 1. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.
  - 2. Any new commercial cemetery shall be located on a site containing not less than twenty (10) acres.
  - 3. All structures including but not limited to mausoleums, permanent monuments, or maintenance buildings shall be setback not less than twenty-five (25) feet from any property line or street right-of-way.
  - 4. All graves or burial lots shall be setback not less than twenty-five (25) feet from any property line or street right-of-way line.
  - 5. All required yards shall be landscaped and maintained in good order in accordance with state and local regulations.

#### 4.110 **DEVELOPMENT STANDARDS FOR TELECOMMUNICATION ANTENNAS AND TOWERS**

##### A **Purpose and Goal**

The purpose of this section of the ordinance is to establish general guidelines for the siting of communication towers and antennas. The goals are to:

1. Encourage the location of towers in nonresidential areas and to minimize the total number of towers throughout the community.
2. Encourage strongly, the joint use of new and existing tower sites.
3. Encourage users of the towers and antennas to locate them to the extent possible, in areas where the adverse impact on the community is minimal.
4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
5. To enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively and efficiently.

##### B. **Definitions**

**Alternative Tower Structure** - man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antennas** - any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

**FAA** - Federal Aviation Administration

**FCC** - Federal Communications Commission

**Governing Authority** - Governing authority of the Town.

**Height** - when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Tower** - any structure that is designated and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

##### C. **Authority**

**District Height Limitations** - the requirements set forth in this ordinance shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

**Public Property** - antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such antennas from the governing authority has been approved.

**Amateur Radio Stations** - Amateur Radio Stations (Hams) licensed under FCC Regulations shall be exempt from the general requirements of the Standards for Telecommunication Antennas and Towers of this resolution. However, Amateur Radio Stations shall adhere to the following regulations:

- (1) No tower shall be placed within any required front, side, or rear setback area.
- (2) Towers shall be placed behind the rear building line of the principal structure of the lot.
- (3) All towers shall be properly grounded as per National Electric Code 810, Section C.
- (4) Amateur towers greater than fifty (50) feet in height are subject to the following additional provisions: At no time shall the fall radius of the tower include any habitable structure not owned by the amateur. The applicant shall provide documentation of ownership, lease, or permanent easement rights for the entire fall radius of the tower. The tower shall be equipped with guards or other devices to prevent it from being climbed without authorization of the amateur. The applicant shall submit documentation to the Burns Planning and Codes Department sufficient to show that all provisions of this section have been met.
- (5) Amateur towers located at a site other than the primary residence of a licensed Ham operator shall meet the requirements for setbacks, fencing, screening, and parking/access as detailed in Section 4.110, Subpart D, General Guidelines. However, amateur towers without ground mounted equipment or buildings need only meet the requirements for access/parking and be designed so that they are not accessible to unauthorized climbing.
- (6) Temporary towers may be erected for a maximum of 48 hours for special events or emergencies upon approval by the Burns Planning and Codes Department.

**Pre-Existing Towers and Antennas** - any tower or antenna on for which permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance except for the provisions for annual inspection. Any such towers or antennas shall be referred to in this ordinance as “pre-existing towers” or “pre-existing antennas”. Any antennas to be added to an existing tower will have to comply with any and all regulations set forth in this ordinance. Likewise, towers that are dismantled, or removed shall be reconstructed so as to comply with the provisions of this ordinance.

D. **General Guidelines**

Standards for Telephone, Telegraph, and Communication Transmitter Stations and Towers. All transmitter stations, including towers and operating equipment located within the Town of Burns shall adhere to the following standards:

1. Design Requirements

All towers with a height of one hundred-fifty (150) feet or more shall be constructed in accordance with Electronics Industries Association ("EIA") standard 222F-1997, or most current EIA standard utilizing a wind rating of eighty miles per hour (80 MPH), plus ice loading for Burns, Tennessee. Each application for a building permit shall be accompanied by a certification by a professional licensed engineer in the State of Tennessee and competent of such design.

2. Setback Requirement

There shall be sufficient area of land to prevent the tower from injuring the public and to reduce the visual impact of the tower. For towers seventy-five (75) feet or less in height, the tower setback radius shall be a minimum of the distance of its height. For towers greater than seventy-five (75) feet the setback radius shall be twice the height of the tower. Applicant shall provide proof of ownership or permanent easement rights for the applicable setback area. The tower does not have to be setback from structures located on the same lot.

3. Fencing

The immediate tower site in either fee simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.

4. Screening

Where the tower abuts or is contiguous to any Residential Zone, there shall be provided a continuous, solid screening, and it shall be such plant materials as will provide a reasonable year-round evergreen screening. Screening herein shall not be less than six (6) feet in height at the time of planting, and shall be permanently maintained by the leaseholder or owner of the subject property.

5. Tower Illumination

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

6. Parking and Access

The access drive to the site shall be passable, being adequate for use by automobile and small truck. The access drive shall be improved by paving or using gravel to prevent off-site problems. There shall be two (2) improved parking spaces on-site.

7. Location and Co-Location

Every effort shall be made to collocate on existing towers or facilities. If the existing facilities are unsuitable (either technologically or topographically), or no facilities exist, the tower shall be made available to others for co-location. The tower shall be designed to allow, at a minimum, for least two (2) additional co-locators.

E. Annual Inspection

Each tower that is constructed within the Town shall be regularly inspected to insure that the fencing, screening, and other provisions of this ordinance or other details as shown on an approved site plan are in compliance. The owner of record of the telecommunications tower shall be assessed an annual inspection fee of two hundred dollars (\$200.00). This fee shall be due **January 3rd** and payable to the Burns Office of Planning and Zoning. A late fee of fifty dollars (\$50.00) shall be assessed if the fee is not paid within thirty (30) days. The fee shall be for the inspection for the year in which the fee is collected. Towers constructed during the year shall have the inspection fee pro rated.

F. Application Requirements

An application to develop a Transmission and Communications Tower shall include at a minimum the following:

A "Determination of No Hazard" from the Federal Aviation Administration, if applicable, as well as all required Federal Communications Commission Permit information.

A site plan showing the location of the proposed tower, its height, the fall radius of the tower, the location of ground mounted buildings and equipment, vehicle access, and the details of the required fencing and screening.

Documentation that the entire setback radius of the tower is owned or has a recorded permanent easement.

Documentation that the tower access is owned or has a recorded permanent easement.

The names, addresses, and telephone numbers of all owners of other Communications/ Transmission Towers or Support Structures within a one (1) mile radius of the proposed new Tower site, including Town-owned property.

An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or collocate the project applicant's telecommunications facilities on towers or useable antenna support structures owned by the Town or other persons within a one (1) mile radius of the proposed tower site.

Written technical evidence from an engineer(s) that the proposed tower or telecommunications facility cannot be installed or collocated on any other tower or antenna support structure within a one (1) mile radius of the proposed tower site. Evidence must show one (1) or more of the following reasons:

1. The equipment would exceed the structural capacity of the existing approved tower and facilities.
2. The planned equipment would cause frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
3. Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively.

Other reasons make it impractical to place the proposed equipment by the applicant on existing towers or facilities.

#### 4.120 **STANDARDS FOR CLUSTER RESIDENTIAL DEVELOPMENTS**

##### A. Purpose

The purpose of this section is to provide permissive voluntary alternative zoning for cluster developments which is permitted within the residential districts and thereby make provisions for variations in lot size requirements within these various districts to be maintained on an overall basis when applied to specific tracts of land and thereby provide desirable and proper open air space, tree cover, recreation areas of scenic vistas; all with the intent of preserving the natural beauty of the area, while at the same time maintaining the necessary maximum population density limitations of the district in which they may be permitted.

##### B. General Provisions

The provisions contained within this section are intended to provide a flexible procedure for locating dwellings upon sites. As such, the provisions do not constitute a use but an alternative procedure for the spacing of buildings and use of the open area surrounding those buildings. It is necessary, however, that the purposes and intent of this ordinance be assured and that proper light, air, and privacy be made available for each dwelling unit. The site development plan is intended to provide not only an accurate statement of the development scheme proposed for each cluster development but an enforceable legal instrument whereby the planning commission may be assured that the general purposes, standards, etc., contained in this Title are being met.

##### C. Site Development Plan Required

###### 1. Contents

A site development plan containing the information required by Article III, Section 3.130, shall be prepared and submitted to the planning commission along with a sketch plat as required by the subdivision regulations for its review and approval.

###### 2. Coordinated Review

Upon receipt of a site development plan and sketch plat containing all information as required above, the planning commission shall:

- a. Concurrently review the plan and plat;
- b. Jointly approve, approve with modification, or disapprove these documents;  
and
- c. In the instance of approval or approval with modification, transfer the plan to the building inspector for enforcement.

###### 3. Enforcement

Upon approval of a site development plan the building inspector shall become responsible for enforcement of the plan. Only minimal adjustments will be permitted once a site development plan has been approved.



D. Development Standards

1. General Standards for Development

In the interest of promoting the most appropriate and economical use of the land while assuring that the character of the residential districts is maintained the planning commission in its review of a proposed density development shall consider the following:

- a. The protection of the character, property values, privacy and other characteristics of the surrounding neighborhood;
- b. The provision for surface drainage control, sewage disposal, and water supply, recreation and traffic control; and
- c. The preservation and protection of existing trees, ground cover, top soil, streams, rock outcroppings and scenic or historic sites from dangers and damage caused by excessive and poorly planned grading for streets and building sites.

2. Minimum Size of Development

No tract of land smaller than the minimum required by this section shall receive approval as a density development. Any tract considered for approval shall be under single ownership by a land owner as defined by this ordinance. The minimum size of tracts shall be as set forth below for the district indicated. Where a tract is divided between two or more zoning districts, the standards applicable to the district requiring the larger tract shall apply.

<u>District</u>	<u>Minimum Tract</u>
A-1	15 acres
RE	10 acres
R-1	10 acres
R-2	5 acres
R-3	5 acres

3. Availability of Public Utilities

Generally all public utilities, specifically including water and public sewer, shall be available at the site of any cluster development.

4. Permitted Density

The density permitted within any cluster development is intended to be the same as typical developments offering no common open space. The maximum number of lots permitted within a cluster controlled development shall be computed as follows:

- a. From the gross acreage available within any cluster controlled development shall be subtracted: (1) any portion of the site which is within the right-of-way and/or easement for major transmission lines where the full use of land is not available to the landowner because of restrictions thereon; (2) areas to be dedicated for public streets or private shared drives.

- b. The area remaining after the above adjustments shall be divided by the minimum lot area for the district in which the lot is located. For developments located in more than one zoning district the density shall be computed separately for that portion of the development lying within each district. The minimum lot applicable to the district in which a portion of the development lies shall apply to that portion. No development shall be transferred across zoning district boundaries.
- c. Any areas with slopes greater than fifteen (15) percent, areas within a designated floodplain, or other areas that would be non-buildable within a standard subdivision may be included at fifty (50) percent of there area as above.
- d. Any cluster subdivision utilizing sidewalks shall receive a density bonus of five (5) percent to the total number of lots that would be otherwise permitted for providing sidewalks on one side of the street and ten (10) percent for developments with sidewalks on both sides of the street.
- e. Any cluster subdivision exclusively utilizing underground utilities shall receive a density bonus of five (5) percent to the total number of lots that would be otherwise permitted.

5. Minimum Lot Area and Lot Width

Within any density controlled development no lot of record may be created within the district indicated which has less area than required below.

<u>District</u>	<u>Conventional District</u>	<u>Cluster Development</u>
A-1	5 acres	40,000 sq. ft.
RE	40,000 sq. ft.	20,000 sq. ft.
R-1	20,000 sq. ft.	10,000 sq. ft.
R-2	15,000 sq. ft.	6,000 sq. ft.
R-3	10,000 sq. ft.	5,000 sq. ft.

6. Yard Requirements

All structures shall be located a minimum of fifteen (15) from any proposed public way or shared private drive. Any building erected along existing public streets shall meet the setback provisions of the conventional district.

7. Setback Requirements

None

8. Lot Coverage

The maximum lot coverage requirement is hereby waived for all lots located in any cluster development. However, prior to final approval of any plan for a cluster development the planning commission shall insure that each dwelling unit to be located within the development is assured proper light, air, and privacy.

9. Pedestrian Circulation

The pedestrian circulation system and its related walkways shall be insulated as completely as possible from the street system in order to provide separation of pedestrian and vehicular movements. Sidewalks shall be provided on both sides of the street. Additional sidewalks may be required as deemed necessary by the Planning Commission for pedestrian underpasses or overpasses in the vicinity of schools, playgrounds, local shopping areas and other neighborhood uses which generate a considerable amount of pedestrian traffic.

E. Open Space Requirements

1. Amount of Open Space Required

In general, the amount of common open space provided shall be equal in area to the aggregate of area reduction permitted for all lots located within the cluster development. All cluster subdivisions shall contain a minimum of fifteen (15) percent open space and a maximum of sixty (60) percent.

2. Quality and Improvement of Common Open Space

No open area may be accepted as common open space under the provisions of this section unless the location, shape, size is appropriate to the scale and character of the density development considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

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

If the site development plan provides for buildings, structures, and improvements, in the common open space of value in excess of ten thousand dollars (\$10,000), the developer must provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The planning commission shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

3. Provisions for Ownership Improvement and Maintenance of Open Space and Recreation Areas

The provisions for ownership improvement and maintenance of common open space set forth in the Burns Subdivision Regulations shall apply to all common open space located within any cluster development.

**4.130 STANDARDS FOR AUTOMOTIVE SERVICES AND REPAIR ESTABLISHMENTS**

A. Outdoor Storage

Storage for vehicular craft awaiting repair or vehicular craft parts shall be stored indoors or in a storage area fully screened from any public or private street and from all adjoining property. Such screening shall be submitted on the site plan and approved by the Planning Commission. Such areas shall be located to the side or rear of the principal building.

However, automobiles service and repair facilities providing normal service and maintenance are permitted to store currently licensed and tagged vehicles in any parking space shown on an approved site plan provided such vehicles are receiving normal service and maintenance services such as oil changes, tune ups, tire replacement, alignment, detailing, window tinting or other similar short-term services.

**4.140 STANDARDS FOR MOBILE HOMES LOCATED ON INDIVIDUAL LOTS**  
**(Added by Ordinance 209, April 6, 2009)**

Mobile homes located on individual lots shall meet the following minimum criteria:

- A. The lot on which the mobile home is to be located shall be within one hundred (100) feet of a lot containing a mobile home.
- B. Mobile homes shall not be located on a lot having frontage on an arterial roadway as per the Burns Major Thoroughfare Plan.
- C. That the mobile home shall meet all requirements of the Burns Zoning Ordinance such as setbacks, access requirements, etc., as well as be in compliance with other codes adopted by the Town of Burns including property maintenance.
- D. That a permit is obtained prior to moving a mobile home onto any property and that a Certificate of Occupancy is obtained within sixty (60) days of the permit being issued unless an extension is granted by the Building Official.
- E. That landings and stairs for each doorway be installed that meet the requirements of the currently adopted building code prior to occupation.
- F. That a permanent screen consisting of brick, stone, or split-face block is built from the ground to the base of the mobile home for the entire perimeter of the structure. Front porches larger than fifty (50) square feet shall also be likewise screened.
- G. That all required utilities be permanently installed including an approved septic system.
- H. Mobile homes shall be placed parallel to the road except when located on a corner lot.
- I. A driveway shall be installed with a minimum surface of crushed stone or gravel.
- J. Documentation must be submitted prior to the issuance of a building permit that the Dickson County Adequate Facilities Tax has been paid.
- K. Any violation of these provisions shall be subject to the enforcement provisions of Article VIII of this Ordinance.

**4.150 DEVELOPMENT STANDARDS FOR SELF-STORAGE**

In addition to the requirements of the Burns Zoning Ordinance, any storage facility in the Commercial Corridor (CC) zoning designation shall adhere to the following development standards:

- A. Entrances and exits to the facility must be secured, limiting access to the facilities to leaseholders (customers).
- B. No commercial operations shall be operated from any mini-storage compartment or compound other than the lease/ rental transaction between the mini-storage compound owner and customers.
- C. No one shall reside in a storage unit, or any vehicle stored in the facility.
- D. Vehicle and boat storage shall be in the rear of the facility, screened from view from the street(s), and any vehicle and boat storage area shall be surfaced with asphalt or concrete.
- E. Lanes within the facility shall be at least twenty (20) feet wide when storage cubicles open onto one side of the lane only and at least twenty-four (24) feet wide when cubicles open onto both sides of the lane. Said lane shall be surfaced with asphalt or concrete.
- F. Lighting shall be installed sufficiently to provide lighting at the compound's four corners and designed to shield light from the compound from becoming a nuisance to surrounding properties. The maximum horizontal foot-candle measurement at any property line shall be two foot-candles. The maximum maintained foot-candle at an adjoining property line shall be one foot-candle, as measured at five feet above grade.
- G. To ensure the safety and security of the facility and surrounding property owners, there shall be a single point of entry and exit to the self-storage facility unless otherwise directed by the Municipal Planning Commission.
- H. All sites shall be landscaped and buffered per the Burns Design Review Manual.

#### **4.151     Design Standards for Self-Storage**

- A. In accordance with the Burns Design Review Manual, screening shall be used if there is a transition between land uses, particularly for any transition to residential uses.
- B. Fencing along any public street shall have a brick facing on the outward side, facing the street. A structure or portion of a building may be integrated into the fence structure or used in lieu of the fence provided that the building has a brick facade. This will also apply to the first thirty (30) linear feet of fence or structure that connects to the façade but is not on a public street, creating a unifying effect.
- C. Facilities located on a corner must install a landscape buffer on at least one property line to screen the row of storage buildings.
- D. Any areas related to refuse collection and servicing shall be located to minimize visibility from public view and reduce potential conflicts with on-site circulation.

**ARTICLE V**  
**ESTABLISHMENT OF DISTRICTS**

**SECTION**

- 5.010 Classification of Districts
- 5.020 Zoning Map
- 5.030 Residential District Regulations
- 5.040 Planned Unit Development Districts
- 5.050 Commercial District Regulations
- 5.060 Industrial Districts

**5.010 CLASSIFICATION OF DISTRICTS**

For the purpose of this ordinance, the following zoning districts are hereby established in the Town of Burns, Tennessee.

	<u><b>Zoning District</b></u>	<u><b>District Abbreviation</b></u>
A.	<u><b>Residential Districts</b></u>	
	Agricultural	A-1
	Residential Estate District	RE
	Rural Residential District	R-1
	Suburban-Density Residential District	R-2
	Urban Residential District	R-3
	Mobile Home Park District	MH
	Low Density Residential PUD	R-1 PUD
	Medium Density Residential PUD	R-2 PUD
	High Density Residential PUD	R-3 PUD
B.	<u><b>Business Districts</b></u>	
	Office-Medical-Professional Services District	OMP
	Commercial Corridor	CC
	Planned Commercial Center	PC
C.	<u><b>Industrial Districts</b></u>	
	Business Park District	BP
	Special Impact Industrial District	I-2

## **5.020     ZONING MAP**

The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map entitled Zoning Map of Burns, Tennessee. The zoning map and any amendment thereto shall be dated with the effective date of the ordinance that adopts same. Certified prints of the adopted map and zoning map amendments shall be maintained in the office of the mayor and Zoning Administrator and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

### **5.021     Zoning District Boundaries**

Unless, otherwise, indicated on the zoning map amendment, the district boundaries are lot lines, center lines of streets or alleys, as they exist at the time of the enactment of the zoning. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.

Where a district boundary line divides a lot existing at the time this ordinance takes effect, and the major portion of said lot is in the less restricted district, the regulations relative to that district may extend as well to such portion of said lot as is not more than one hundred (100) feet within the more restricted district.

### **5.022     Zoning of Annexed Land**

The Planning Commission shall recommend a proposed zoning classification for all property to be annexed by the Town.

- (1) In cases where the property being annexed by the Town of Burns has been zoned by the Dickson County Commission as a Planned Unit Development or a Planned Commercial District and approval for the development has not expired due to inactivity, the Town of Burns shall notify the owner of such property by certified mail at the time of annexation. The owner of such property shall then submit to the Town (within ninety (90) days) all documents and plans that were submitted and approved by the Dickson County Commission. If submitted, such plans shall be approved by the Town Council and an appropriate Planned Zoning Classification shall be given to the property. However, all infrastructure not already approved by the Dickson County Planning Commission as part of a preliminary or final subdivision plat may be required to be amended to meet the Burns Subdivision Regulations when submitted to the Burns Municipal Planning Commission as part of any preliminary or final subdivision plat.

Failure of an owner to submit to the Town (within ninety (90) days) all documents and plans that were submitted and approved by the Dickson County Commission shall result in the loss of any vested rights of the owner to the plans approved as part of the zoning granted by the Dickson County Commission. In such cases, the Town of Burns may zone any such property as may best protect the common health, welfare, and safety of the Town of Burns.

### **5.023     Public Sewerage**

The district requirements of this ordinance assume that all developments within the Town of Burns have access to public sewerage. Therefore all minimum lot sizes of this ordinance are based on the utilization of public sewer. Any lot or parcel not utilizing public sewer shall

have a minimum lot size of forty thousand (40,000) square feet with the exception of legally existing lots of record. However, in all cases in which any lot or development utilizing a septic system shall have been approved by the Tennessee Department of Environment and Conservation. Note that other Town regulations may require that developments use available public sewer systems.

#### **5.030     RESIDENTIAL DISTRICT REGULATIONS**

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

- A. To provide sufficient space in appropriate locations for residential development to meet the housing needs of the Town's present and expected future population, with due allowance for the need for a choice of sites and building types;
- B. To protect residential areas, as far as possible, against heavy traffic and against through traffic of all kinds;
- C. To protect residential areas against congestion, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces.
- D. To require the provision of open space and a maximum conservation of natural sites in residential areas, and to encourage the provision of additional open space by permitting planned development of moderately higher density and intensity coverage with higher standards of open space, in order to provide large open areas with greater utility for rest and recreation; and to encourage the development of more attractive and economic and less monotonous building forms, by providing freedom of architectural and site design;
- E. To provide for access of light and air to windows and for privacy by controls over the spacing and height of buildings and other structures;
- F. To provide appropriate space for those public and private educational, recreational, health, and similar facilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences;
- G. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenue.

#### **5.031     A-1, Agricultural**

##### **(1)     Purpose and Intent of District**

This district is designed to provide suitable areas for agricultural activities and low density residential development where limited or partial urban services and facilities are provided. Most generally, these districts will be characterized by farming activities mixed with single-family detached structures and their accessory structures. These districts also include community facilities, some public utilities and open uses which serve specifically the residents of those districts or which are benefited by and



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

(2) Uses Permitted

In the A-1, Agricultural-Estate Residential District, the following uses are permitted.

**Residential Activities**

Single Detached Dwelling

**Agricultural, Resources Production, and Extractive Activities**

Agricultural Services  
Crop and Animal Raising  
Plant and Forest Nurseries

(3) Accessory Uses and Structures

- (a) Buildings used for agricultural purposes such as storage of horses, livestock, feed, or farming equipment.
- (b) Private garages and sheds.
- (c) Outdoor recreational facilities exclusively for the use of the residents.
- (d) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (e) Home occupations as defined by and subject to the provisions of this ordinance.
- (f) Other accessory structures and uses customarily incidental to the permitted uses.

(4) Uses Permitted as Special Exceptions

In the A-1, Agricultural-Estate Residential District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

**Community Facility Activities**

Essential Services  
Religious Facilities

**Intermediate Impact Facilities**

Cemeteries, Columbiiums, and Mausoleums

(5) Uses Prohibited

In the A-1, Agricultural-Estate Residential District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

(6) Dimensional Requirements

All uses permitted in the A-1, Agricultural-Estate Residential District, shall comply with the following requirements.

(a) Minimum Lot Size

Minimum Area - Single Family	5 acres
Minimum Area - Agricultural Uses	5 acres
Lot Width at Building Setback	150 ft.

(b) Minimum Yard Requirements

Front Yard Setback	50 feet on minor streets 50 feet for collector streets 50 feet for arterial streets*
Side	25 ft.
Rear	30 ft.
Side and Rear Yards for Corner Lots	25 ft.

**\*Or as may be determined by TDOT**

(c) Maximum Lot Coverage

On any lot, the area occupied by all structures, including accessory structures, shall not exceed twenty (20) percent of the total area.

(d) Height Requirements

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

(e) Parking Space Requirements

As regulated in Article IV, Section 4.010.

(f) **(Reserved)**

(g) Accessory Structures

- (i) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.
- (ii) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.

- (iii) All accessory structures shall be located behind the front building line of the primary structure.

#### **5.032 RE, Residential Estate District**

##### **(1) Purpose and Intent of District**

These districts are designed to provide suitable areas for low density residential development where appropriate urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally, these districts will be characterized by single-family detached structures and such other structures as are accessory thereto. These districts also include community facilities, public utilities and open uses which serve specifically the residents of those districts or which are benefited by and compatible with a residential environment. It is the express purpose of this zoning ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exceptions and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

##### **(2) Uses Permitted**

In the RE, Residential Estate District, the following uses are permitted.

##### **Residential Activities**

Single Detached Dwelling

##### **(3) Accessory Uses and Structures**

- (a) Private garages and sheds.
- (b) Outdoor recreational facilities exclusively for the use of the residents.
- (3) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (4) Home occupations as defined by and subject to the provisions of this ordinance.
- (5) Other accessory structures and uses customarily incidental to the permitted uses.

##### **(4) Uses Permitted as Special Exceptions**

In the RE, Low-Density Residential District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

##### **Community Facility Activities**

Essential Services  
Religious Facilities

## **Intermediate Impact Facilities**

Cemeteries, Columbiums, and Mausoleums

### (5) **Uses Prohibited**

In the RE, Residential Estate District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

### (6) **Dimensional Requirements**

All uses permitted in the RE, Residential Estate District, shall comply with the following requirements.

#### (i) **Minimum Lot Size**

Minimum Area	40,000 sq. ft.
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Lot Width at Building Setback	125 ft.
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#### (ii) **Minimum Yard Requirements**

Front Yard Setback	30 feet on minor streets 40 feet for collector streets 50 feet for arterial streets*
Side	15 ft.
Rear	25 ft.
Side and Rear Yards for Corner Lots	20 ft.

**\*Or as may be determined by TDOT**

#### (iii) **Maximum Lot Coverage**

On any lot, the area occupied by all structures, including accessory structures, shall not exceed thirty (30) percent of the total area.

#### (iv) **Height Requirements**

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

#### (v) **Parking Space Requirements**

As regulated in Article IV, Section 4.010.

#### (vi) **(Reserved)**

#### (vii) **Accessory Structures**

(a) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.

- (b) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.
- (c) All accessory structures shall be located behind the front building line of the primary structure.

**5.033 R-1, Low-Density Residential District**

(1) Purpose and Intent of District

These districts are designed to provide suitable areas for low to medium density residential development where appropriate urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally, these districts will be characterized by single-family detached structures and such other structures as are accessory thereto. These districts also include community facilities, public utilities and open uses which serve specifically the residents of those districts or which are benefited by and compatible with a residential environment. It is the express purpose of this zoning ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exceptions and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

(2) Uses Permitted

In the R-1, Low-Density Residential District, the following uses are permitted.

**Residential Activities**

Single Detached Dwelling

(3) Accessory Uses and Structures

- (i) Private garages and sheds.
- (ii) Outdoor recreational facilities exclusively for the use of the residents.
- (iii) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (iv) Home occupations as defined by and subject to the provisions of this ordinance.
- (v) Other accessory structures and uses customarily incidental to the permitted uses.

(4) Uses Permitted as Special Exceptions

In the R-1, Low-Density Residential District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

## **Community Facility Activities**

Essential Services  
Religious Facilities

## **Intermediate Impact Facilities**

Cemeteries, Columbiiums, and Mausoleums

### (5) **Uses Prohibited**

In the R-1, Low-Density Residential District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

### (6) **Dimensional Requirements**

All uses permitted in the R-1, Low-Density Residential District, shall comply with the following requirements.

#### (a) **Minimum Lot Size**

Minimum Area	20,000 sq. ft.
Lot Width at Building Setback	100 ft.

#### (b) **Minimum Yard Requirements**

Front Yard Setback	30 feet on minor streets 40 feet for collector streets 50 feet for arterial streets*
Side	15 ft.
Rear	25 ft.
Side and Rear Yards for Corner Lots	20 ft.

**\*Or as may be determined by TDOT**

#### (c) **Maximum Lot Coverage**

On any lot, the area occupied by all structures, including accessory structures, shall not exceed thirty (30) percent of the total area.

#### (d) **Height Requirements**

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

#### (e) **Parking Space Requirements**

As regulated in Article IV, Section 4.010.

#### (f) **(Reserved)**

(g) Accessory Structures

- (i) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.
- (ii) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.
- (iii) All accessory structures shall be located behind the front building line of the primary structure.

**5.034 R-2, Medium-Density Residential District**

(1) Purpose and Intent of District

This class of district is designed to provide suitable areas for medium density residential development where sufficient urban services and facilities are provided or where the extension of such services can be physically and economically facilitated prior to development. All types of residential activities are permitted. This class of district is intended also to permit community facility and public utility installations which are necessary to serve and do serve specifically the residents of these districts, or which installations are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this class district all buildings and other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this class of district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

(2) Uses Permitted

In the R-2, Medium-Density Residential District, the following uses are permitted.

**Residential Activities**

Single Detached Dwelling  
Duplex Dwelling

(3) Accessory Uses and Structures

- (i) Private garages and sheds.
- (ii) Outdoor recreational facilities exclusively for the use for the use of the residents.
- (iii) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (iv) Home occupations as defined by and subject to the provisions of Article III.
- (v) Other accessory structures and uses customarily incidental to the permitted uses.

(4) Uses Permitted as Special Exceptions

In the R-2, Medium-Density Residential District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

**Community Facility Activities**

Community Assembly  
Cultural and Recreational Services  
Essential Services  
Religious Facilities

**Intermediate Impact Facilities**

Cemeteries, Columbioms, and Mausoleums

**Residential Activities**

Dwelling, Mobile Home

(5) Uses Prohibited

In the R-2, Medium-Density Residential District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

(6) Dimensional Requirements

All uses permitted in the R-2, Medium-Density Residential District, shall comply with the following requirements.

(i) Minimum Lot Size

Minimum Area - Single Family-	15,000 sq. ft.
Two-Family	20,000 sq. ft.
Lot Width at Building Setback	100 ft.

(ii) Minimum Yard Requirements

Front Yard Setback	30 feet on minor streets 35 feet for collector streets 50 feet for arterial streets*
Side	10 ft.
Rear	20 ft.
Side and Rear lots of corner lots	17 ft.

**\*Or as may be determined by TDOT**

(iii) Maximum Lot Coverage

On any lot, the area occupied by all structures, including accessory structures, shall not exceed thirty-five (35) percent of the total area.



(iv) Height Requirements

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

(v) Parking Space Requirements

As regulated in Article IV, Section 4.010.

(vi) **(Reserved)**

(vii) Accessory Structures

(a) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.

(b) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.

(c) All accessory structures shall be located behind the front building line of the primary structure.

**5.035 R-3, High-Density Residential District**

(1) Purpose and Intent of District

This class of district is designed to provide suitable areas for high-density residential development where sufficient urban services and facilities are available or where such facilities will be available prior to development. It is the intent of this district to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open space on such lot relative to the number of dwelling units thereon. This class of district is intended also to permit community facility and public utility installations which are necessary to serve and do serve specifically the residents of these districts, or which installations are benefited by and compatible with a residential environment.

(2) Uses Permitted

In the R-3, High-Density Residential District, the following uses are permitted.

**Residential Activities**

(a) Permanent Activities

Dwelling, Single Detached  
Dwelling, Duplex  
Dwelling, Multi-Family (Apartment, Townhouse)

(b) Semi-Permanent Residential

Boarding House  
Rooming House

### **Community Facility Activities**

Essential Services

(3) **Accessory Uses and Structures**

- (a) Private garages and sheds.
- (b) Outdoor recreational facilities exclusively for the use of the residents.
- (c) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (d) Home occupations as defined by and subject to the provisions of this ordinance.
- (e) Other accessory structures and uses customarily incidental to the permitted uses.

(4) **Uses Permitted as Special Exceptions**

In the R-3, High-Density Residential District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

### **Community Facility Activities**

Community Assembly  
Community Education  
Cultural and Recreational Services  
Personal and Group Care Facilities  
Religious Facilities

### **Intermediate Impact Facilities**

Cemeteries, Columbioms, and Mausoleums

(5) **Uses Prohibited**

In the R-3, High-Density Residential District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

(6) **Dimensional Requirements (Amended by Ordinance 265, October 2, 2017)**

All uses permitted in the R-3, High-Density Residential District, shall comply with the following requirements.

(a) Minimum Lot Size

Single Family Dwellings	8,000 sq. ft.
Each additional dwelling	5,000 sq. ft.
Multi-Family Dwellings	8 units per acre
Lot Width at Building Setback	50 ft.

(b) Minimum Yard Requirements

Front Yard Setback	30 feet on minor streets 40 feet for collector streets 50 feet for arterial streets*
Side	5 ft.
Rear	15 ft.
Side and Rear Yards for Corner Lots	12 ft.

**\*Or as may be determined by TDOT.**

(c) Maximum Lot Coverage

On any lot, the area occupied by all structures, including accessory structures, shall not exceed fifty (50) percent of the total area.

(d) Height Requirements

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

(e) Parking Space Requirements

As regulated in Article IV Section 4.010.

(f) **(Reserved)**

(g) Accessory Structures

- (i) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.
- (ii) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.
- (iii) All accessory structures shall be located behind the front building line of any one or two family dwelling.

**5.036 MH, Mobile Home Park District (amended by Ordinance 297, August 3, 2020)**

(1) Purpose and Intent of District

This class of district is designed to provide suitable areas for high-density mobile home parks where sufficient urban services and facilities are available or where such facilities will be available prior to development, and access to an arterial-status roadway per the Major Road Plan for Burns. It is the intent of this District to provide an area within the Town of Burns so as to provide an alternative to traditional residential dwellings in a designated area with proper facilities and amenities for mobile home dwellings. This district is intended also to permit community facility and public utility installations such as water and sewer which are necessary to serve and do serve specifically the residents of these districts, or which installations are benefited by and compatible with a residential environment. The

MH zoning district and all permitted uses contained herein shall be limited to properties fronting Hwy 47 from the western corporate limits abutting the City of Dickson's boundary and eastward to approximately 865 feet (0.15 miles) from the intersection with Scott Drive.

(2) Uses Permitted

In the MH, Mobile Home Park District, the following uses are permitted.

**Residential Activities**

Mobile Home Parks

**Community Facility Activities**

Essential Services

(3) Accessory Uses and Structures

- (a) Private garages and sheds.
- (b) Outdoor recreational facilities exclusively for the use of the residents.
- (c) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (d) Home occupations as defined by and subject to the provisions of this ordinance.
- (e) Other accessory structures and uses customarily incidental to the permitted uses.

(4) Uses Permitted as Special Exceptions

In the MH, Mobile Home Park District, the following uses may be permitted as special exceptions after review and approval by the Board of Zoning Appeals in accordance with Article VIII.

**Community Facility Activities**

Community Assembly  
Community Education  
Cultural and Recreational Services  
Personal and Group Care Facilities  
Religious Facilities

(5) Uses Prohibited

In the MH, Mobile Home Park District, any use not permitted by right, by accessory use, or as a special exception as defined above is strictly prohibited.

(6) Dimensional Requirements

All uses permitted in the MH, Mobile Home Park District, shall comply with the following requirements.

(a) Maximum Density 8 dwelling units per acre

(b) Minimum Yard Requirements

Front Yard Setback	50 feet*
Side	5 ft.
Rear	15 ft.
Side and Rear Yards for Corner Lots	12 ft.

**\*Or as may be determined by TDOT.**

(c) Maximum Lot Coverage

On any lot, the area occupied by all structures, including accessory structures, shall not exceed fifty (50) percent of the total area.

(d) Height Requirements

No principal building shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed two (2) stories in height.

(e) Parking Space Requirements

As regulated in Article IV, Section 4.010.

(f) Development Standards

In addition to the bulk standards provided herein, all mobile home parks are required to comply with the development standards as provided in ART IV, Section 4.080 of this Ordinance. Any use permitted by special exception are subject to the general conditions for approval as provided in ART VIII.

(g) Accessory Structures

- (i) With the exception of signs and fences, accessory structures shall not be erected in any required front yard.
- (ii) Accessory structures shall be located at least five (5) feet from any side lot line, from the rear lot line, and from any building on the same lot.
- (iii) All accessory structures shall be located behind the front building line of any one or two family dwelling.

#### **5.040 PLANNED UNIT DEVELOPMENT DISTRICTS**

**Intent:** These regulations are designed to promote flexibility in design and permit planned diversification in the location of structures; to promote efficient use of land that will facilitate a more economic arrangement of buildings; circulation systems, land use, and utilities; to preserve as much as possible existing landscape features and utilize them in a harmonious fashion; to encourage the total planning of tracts of land; and to provide a mechanism for the ownership of land, utilities, streets, and facilities in common as well as the maintenance and disposition thereof. Note that these zoning districts are free-standing and have their own densities and setback requirements; these PUD requirements are not an overlay zoning district.

## **5.041     General Provisions**

### **(1)     Master Plan Required**

No application for a Planned Unit Development (PUD) District shall be considered unless a master plan meeting the requirements outlined in this section is submitted therewith. Such application shall indicate that the services of one (1) or more design professionals were utilized in the preparation of the plan.

### **(2)     Ownership and Division of Land**

No tract of land may be considered for or approved as a planned unit development unless such tract is under single ownership. The holder(s) of a written option to purchase, any governmental agency, or a redeveloper under contract shall be considered landowners for purposes of this section. Unless otherwise provided as a condition of approval of a PUD, the landowner of an adopted PUD may divide and transfer parts of such development. The transferee shall complete each such unit, and use and maintain it in strict conformance with the adopted final master plan. Prior to the transfer of any section, a subdivision plat shall be filed with the Planning Commission.

### **(3)     Relationship to Subdivision Regulations**

The uniqueness of each proposal for a planned unit development may require that specifications for 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 approval of the Planning Commission as a part of its review of the master plan for a PUD 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 master plan.

### **(4)     Combination of Separate Types of Planned Unit Developments**

The Planning Commission and the Town Council may consider separate types of Planned Unit Developments, such as residential and commercial within a consolidated Master Plan as a single administrative procedure provided that the total tract is in single ownership by a landowner and the land area is sufficient to comply with the separate type requirements combined.

### **(5)     Development Period, Staging Schedule**

The expeditious construction of any PUD shall be undertaken to assist in the assurance of the full completion of the development in accordance with the approved master plan.

Within two (2) years after the date of approval, actual construction shall have commenced in such development. In the event that construction has not been started, the Planning Commission shall conduct a hearing on the project and review the feasibility of the PUD and may act to cancel or extend approval of the master plan depending upon the circumstances of each case.

The Planning Commission may permit the development to be constructed in stages so that completion is achieved in a logical manner. Each stage shall be planned and

related to existing surroundings and available facilities and services, so that failure to proceed to the subsequent stages will not have an adverse impact on the planned unit development or its surroundings, at any stage of the development.

(6) Common Open Space and Facilities

Any common space or public or private facilities shall be subject to the following provisions:

- (a) The location, shape, site, and character of the common open space shall be reviewed in detail, and it must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development considering its size, density, expected population, topography, and the number and type of dwellings or structures to be provided.
- (b) Common open space must be suitable for its intended uses but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements, which are permitted in the common open space, must be appropriate to the uses, which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.
- (c) The Planning Commission shall require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space and facilities 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 an appropriate public agency and said dedication be approved by the Planning Commission. However, the conditions of any transfer shall conform to the adopted final master plan.
- (d) 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 unit development fail to maintain the common open space in reasonable order and condition in accordance with the adopted master plan, the codes director may serve written notice upon such organization and/or the owners or residents of the planned unit development and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the codes director shall call upon any public or private agency to maintain the common open space for a period of one (1) year. When the codes director determines that the organization is not prepared for the maintenance for the common open space such agency shall continue maintenance for yearly periods.
- (e) The cost of such maintenance by such agency shall be assessed proportionally against the properties within the planned unit development that have a right of enjoyment of the common open space, and shall become a lien on said properties.
- (f) When the common open space is deeded to a Homeowners' 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 Homeowners' Association must be set up prior to no more than fifty-one (51) percent of the lots and/or homes being 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, open space and other facilities.
- (v) Homeowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property.
- (vi) The association must be able to adjust the assessment to meet changing needs.
- (g) A recreation plan shall be developed and presented with the Preliminary Master Development Plan for any proposed residential planned unit development. This plan shall indicate the general demographic characteristics of the anticipated market being targeted by the proposed development. The plan shall indicate the recreation facilities proposed and the age groups these facilities are designed to serve, as well as provide the number and detailed specifications of each type of recreational equipment and facility proposed. The size of each type of recreational facility, or type of recreational equipment shall be directly related to the age and number of the anticipated user population. These facilities may be devoted to either: (1) Shared limited use facilities designed so as to assure privacy and control of access by and for the exclusive use of a specific residential clientele within the development or (2) Shared general use recreation facilities which are available to all residents of the proposed development. All recreational equipment provided should be durable commercial grade equipment.

A minimum of five (5) percent of the gross area of every residential PUD shall be devoted to improved and developed recreational open space.

(7) Dedication of Public Facilities

The Planning Commission and Town Council may require that suitable areas for streets, utilities, public rights-of-way, schools, parks, and public areas be set aside and/or dedicated to the Town of Burns.

**5.042 Administrative Procedure**

The provisions of this section govern the procedure for review and approval for all planned unit developments as provided herein. Any landowner or developer, as defined, may apply for a PUD Zoning in any area subject to these provisions, and the Town Council may, within its legislative power, impose PUD Zoning upon any land area, and after such action,



the landowner shall follow the remaining procedures before any zoning permits can be issued and the land developed.

(1) Steps of Approval Process

- (a) The applicant may request a pre-application conference with planning staff to evaluate the proposal and to determine and clarify any issues that may arise.
- (b) The applicant shall submit a preliminary master plan and rezoning request to the Planning Commission for their consideration along with the required fees.
- (c) The Planning Commission may recommend approval or disapproval of a developer's request. If approved, the Planning Commission shall recommend the necessary PUD zoning to the Town Council.
- (d) After approval of the preliminary master plan and amendment of the zoning map, preparation of the final master plan may begin.
- (e) The applicant shall submit a final master plan to the Planning Commission for their consideration. If any part of the PUD is to be subdivided, a preliminary subdivision plat shall also be submitted. Both documents may be considered simultaneously. Approval of the final master plan shall form the basis for all permits, variances, and standards for the PUD.
- (f) Prior to the sale or transfer of any property, the applicant shall submit and have approved a final subdivision plat.

(2) Application for Approval of the Preliminary Master Plan and Zoning Request

Application for approval of the preliminary master plan shall be made by the landowner of the affected property or his authorized agent, to the Planning Commission in accordance with such written general rules regarding general procedure, form of application, and required information as the Planning Commission may determine, provided they are not inconsistent herewith. The application for preliminary approval shall consist of the following:

- (a) The preliminary master plan for the proposed planned unit development shall be a general concept plan which may include such items as the Planning Commission by general rule which may include, but is not limited to the following items:
  - (i) The location and size of the area involved.
  - (ii) Transportation routes including streets, driveways, sidewalks, and pedestrian ways, and off-street parking and loading areas.
  - (iii) Location and approximate dimensions of structures including approximate height and bulk, and the utilization of structures including activities and the number of living units.
  - (iv) Estimated population and density and extent of activities to be allocated to parts of the project.

- (v) Any proposed reservations for public uses including schools, parks and other open spaces.
  - (vi) Availability commitments from the appropriate water and sewer provider.
  - (vii) Major landscaping features, including topography.
  - (viii) The general means of the disposition of sanitary wastes and storm water, and
  - (ix) North arrow, graphic scale, and location map showing relationship to existing street system and adjoining properties.
  - (x) Specify the various uses of structures within the PUD, for example the percentage of structures that are residential and the percentage of structures that are non-residential.
  - (xi) Elevations as necessary.
  - (xii) Details and locations of signs.
  - (xiii) The general layout of proposed streets and the location of parking lot improvements.
  - (xiv) Location and use of all common open space area.
  - (xv) Additional information as determined by the Planning Commission to indicate fully the ultimate operation and appearance of the PUD.
- (b) A tabulation of the land area to be devoted to various uses and activities and overall densities.
  - (c) The nature of the landowner's interest in the land proposed to be developed and a written statement or concurrence from all parties having a beneficial interest in the affected property.
  - (d) The substance of covenants, grants of easements, deed restrictions, or other restrictions to be imposed upon the use of the land, buildings and structures to include total square footage, building materials, architectural drawings, and proposed easements for public utilities.
  - (e) A development schedule, setting forth when the landowner intends to commence construction and an estimated completion period.
  - (f) When it is proposed that the final master development plan will be submitted in stages, a schedule of submission thereof.

(3) Application for Approval of the Final Master Plan

The action of the Town Council on the zoning request and the preliminary master plan shall authorize and form the basis for the Planning Commission approval of a final master plan.

(4) Application for Final Approval.

After zoning a Planned Unit Development District, the landowner may make application to the Planning Commission for approval of a final master development plan, provided that the proposed master development plan and other elements associated with the planned unit development are in substantial compliance with the substance of the preliminary approval of the Town Council. The application shall include all aspects of the preliminary application, the proposed final master development plan, other required drawings, specifications, covenants, easements, and conditions and forms of bonds as were set forth by the Planning Commission's preliminary approval. Copies of all legal documents required for dedication or reservation of group or common open space and/or for the creation of a non-profit association shall also be submitted. When appropriate, this application shall contain the stage development schedule.

(5) Final Approval of Stages

The application for final approval and the final approval by the Planning Commission may be limited to each stage as appropriate in a large planned unit development.

(6) Final Master Development Plan

The final master plan of a planned unit development, or as submitted in stages if authorized, shall be substantially consistent with the approved preliminary master plan.

(7) Amendments to the PUD

The terms, conditions, and the final master plan of a PUD may be changed from time to time by official action of the Planning Commission. Any such amendments must remain in compliance with the appropriate zoning regulations and comply with the following.

The landowner, the residents and/or owners of or in the PUD may apply to the Planning Commission for an amendment to the master plan. The Planning Commission may approve such amendment so long as the original intent is not abrogated and the change does not in any way damage any part of the PUD or any adjoining properties. Minor changes in the location, sitting, and height of buildings may be authorized by the Planning Commission if required by engineering or other circumstances of the location not foreseen at the time of final approval. Major changes including an increase in the number of dwelling units, changes in the type of structures (such as single family to multi-family) major rearrangement of lots, blocks, or building tracts, or a reduction in the amount of open space must be submitted to both the Planning Commission and Town Council.

(8) Cancellation of an Adopted Planned Unit Development

In the event that actual construction has not begun within two (2) years from and after the date of the ordinance adopting or amending a plan unit development the Planning Commission may, after an official meeting with notice to the landowner, act to cancel the approved master plan or at any time upon the petition of the landowner.

(9) Building Permits

A building permit shall be issued for structures, buildings, activities, or uses as a part of a finally adopted planned unit development only in strict compliance with the master development plan of the particular planned unit development including the conditions of approval and only after the administrative procedure outlined in this section has been strictly adhered to. No building permit shall be issued for the area included in a preliminary planned unit development until a final master development plan has been approved.

**5.043 Residential Planned Unit Developments**

(1) Type of Developments

There are hereby created three (3) types of residential PUDs as follows:

Low Density Residential PUD	R-1 PUD
Medium Density Residential PUD	R-2 PUD
High Density Residential PUD	R-3 PUD

(2) Purpose

The purpose of a Low Density Residential PUD is to permit development of land, which by reason of topography or floodable land contains some areas unsuitable for development, and to permit the cluster of lots in order to leave the unsuitable land as permanent open space.

The purpose of a Medium Density Residential PUD is to permit development of land, which has reasonable topography and is suitable for development. The MDRPUD permits a variety of housing types but is primarily aimed at single-family detached dwellings.

The purpose of a High Density Residential PUD is to permit a variety of housing types within a totally planned environment.

(3) Minimum Size

The minimum amount of acres required for each PUD type is as follows:

R-1 PUD	5 acres
R-2 PUD	4 acres
R-3 PUD	2 acres

(4) Permitted Activities in a Residential PUD

The following activities listed in Table I, may be permitted in a PUD only when deemed appropriate by the Planning Commission and the Town Council as approved with the preliminary master plan. Other activities not listed are prohibited.

(5) Limitation on Commercial Activities

The commercial activities permitted in Table I, shall be limited to no more than five (5) percent of the total floor area within such development and provided further that the maximum floor area for any single establishment shall be five thousand (5,000)

square feet. Such commercial activities shall be designed to serve primarily the residents within the PUD and shall not be constructed until at least one-half (1/2) of the residential units are complete. These provisions may be altered provided they are submitted and approved by the Town Council as part of the preliminary master plan.

**5.044     R-1, Low Density Residential Planned Unit Development**

(1)     Density, Bulk and Open Space Regulations for Single Family Detached Dwelling Units

Minimum Lot Size	None
Maximum Density	3 dwelling units per acre

The remaining area shall be left as common open space and used for designated purposes as approved by the Planning Commission. The minimum required ratio of dedicated common open space should be in terms of the maximum density of the planned unit development and based on five percent of the total gross acreage.

(a)     Yards

Minimum Front Yard	25 ft.
Minimum Side Yard	None
Minimum Rear Yard	None

**TABLE I**  
**PERMITTED USES AND STRUCTURES**  
**RESIDENTIAL PLANNED UNIT DEVELOPMENT**

<b><u>Residential Activities</u></b>	<b><u>Districts</u></b>		
<b><u>Permanent Residential</u></b>	<b><u>R-1 PUD</u></b>	<b><u>R-2 PUD</u></b>	<b><u>R-3 PUD</u></b>
Dwelling Attached	N	N	P
Dwelling One-Family Detached	P	P	P
Dwelling Two-Family Detached	N	N	P
Dwelling Semi-Detached	N	P	P
Dwelling Mobile Home	N	N	N
Dwelling Multi-Family	N	N	P
Semi-Permanent Residential	N	N	N
<b><u>Community Facilities Activities</u></b>			
Administrative Services	N	N	N
Community Assembly	P	P	P
Community Education	P	P	P
Cultural & Recreation Services	P	P	P
Essential Services	P	P	P
Extensive Impact Facilities	N	N	N
Health Care Facilities	N	N	P
Institutional Care Facilities	N	N	N
Intermediate Impact Facilities	N	N	N
Personal & Group Care Facilities	N	P	P
Religious Facilities	P	P	P
<b><u>Commercial Activities</u></b>			
Convenience Commercial	P	P	P
<b><u>Key to Interpreting Uses</u></b>			

P - May be considered as a permitted use.  
N - Not permitted in the district.

**5.045     R-2, Medium Density Residential Planned Unit Development**

(1)     Density and Yard Requirements

(a)     Density and Open Space Requirements

Minimum Lot Size	None
Maximum Density	6 dwelling units per acre

(b)     Yards

None

**5.046     R-3, High Density Residential Planned Unit Development**

(1)     Density, Bulk and Open Space Regulations for Single Family Detached Dwellings

(a)     Density and Open Space Regulations

Maximum Density of ten (10) dwelling units per acre.

(b)     Yards

None required

(2)     Density, Bulk and Open Space Regulations for Multi-Family Dwellings

(a)     Density, Bulk and Open Space Regulations

The following requirements shall apply to multi-family dwellings within a R-3 PUD:

Maximum Building Height:	35 ft.
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(b)     The maximum overall densities shall be in terms of the number of dwelling units per gross acre of all the area within said development.

(c)     The maximum floor area shall be in terms of a ratio of total floor area per total area within said development, as provided herein.

(d)     Yard requirements are waived and the above minimum controls shall be applied.

(e)     The minimum total outdoor area (including all uncovered outdoor areas, such as streets, parking, lawn, landscaped areas, patios, recreation, as well as usable roofs and uncovered balconies) shall be provided at no less than a minimum ratio of outdoor area per total floor area, as provided herein.

(f)     The minimum total living space (that part of the total outdoor area which includes lawn, landscaping, and recreation areas and excluding streets and parking) shall be provided at no less than a minimum ratio of living space area per total floor area, as provided herein.

(3) Development Standards

(a) Perimeter Requirements

Along the perimeter of the Planned Unit Development, buildings shall be designed to harmonize in scale, setbacks, and mass with existing adjacent areas. A minimum setback of twenty-five (25) feet shall be required around the perimeter of all residential planned unit developments. Perimeter landscaping shall also be required.

(b) Landscaping Requirements

Every PUD shall be attractively landscaped. The perimeter and parking lot, landscaping requirements of Article IV, of the Burns Zoning Ordinance, shall apply.

(c) Parking and Storage

On-street parking shall be prohibited in all planned unit developments. All parking and storage areas shall be enclosed or concealed by berms and/or buffers.

(d) Signs

The location and design of all signs shall be shown as a separate element of the preliminary master plan.

(e) Street Improvements

Within any residential PUD, streets may be public or private provided that streets in a R-1 PUD should be public. Privately constructed streets shall be built according to the same standards as public streets as per the requirements of the Town of Burns Subdivision Regulations. Likewise, private streets shall be inspected by the Town during all phases of construction as per the Subdivision Regulations. Provisions for the permanent maintenance of private streets shall be provided by the developer through the use of a homeowners association or other approved methods.

(f) Utilities

The development shall be serviced with public sanitary sewerage systems. The water systems shall be capable of providing needed fire flows for the development as well as domestic water supply. Fire hydrants shall be located within two hundred-fifty (250) feet of each dwelling unit except one and two family dwellings.

(g) Waste Disposal

If any central waste disposal containers are provided, they shall be completely enclosed and screened from view.



(4) Development Standards for Multi-Family Projects

- (a) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.
- (b) Street sidewalks and on-site walks may 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.
- (c) The appearance 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 the screen out objectionable features. The planting plan shall be submitted with the preliminary master plan.
- (d) Existing trees, shrubs, evergreens and ground cover shall generally be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.
- (e) Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.
- (f) Attractive outdoor sitting areas may be provided, appropriate in size, type and number to the needs of the residents.
- (g) Access and circulation shall adequately provide for fire fighting equipment, service deliveries, and furniture moving vans and refuse collection.
- (h) 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 (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve.
- (i) Walks and steps shall be provided, maintained and lighted for night use.

(5) Development Standards for Attached Dwellings

- (a) The minimum lot required for any individual attached dwelling should be as required to meet other provisions of these regulations. Individual attached dwellings may exceed the maximum lot coverage provisions established for the area in which such site is located.

However, in no instance shall the aggregate site coverage of all dwellings, attached or otherwise, exceed the coverage provisions established for the PUD District in which such site is located.

- (b) Minimum width for the portion of the lot on which the town house is to be constructed shall be twenty-two (22) feet.
- (c) Not more than seven (7) contiguous town houses shall be built in a row with the same or approximately the same front line, and not more than twelve (12) town houses shall be contiguous.
- (d) Parking for attached dwellings may be constructed with two (2) off-street parking space required and the other required space constructed in bays either adjacent to the streets or in the interior of blocks. Such spaces shall be located within two hundred (200) feet of each unit to be served. Where 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.
- (e) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.
- (f) Street sidewalks and on-site walks may 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.

(6) Quality and Improvement of Common Open Space

No open area may be accepted as common open space under the provisions of this section unless the location, shape, size and character of the common open space is appropriate to the scale and character of the development considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

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

If the master plan provides for buildings, structures, and improvements, in the common open space then the developer shall provide a surety bond of equal value in order to ensure that the buildings, structures, and improvements will be completed. The Planning Commission shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

## **5.050 COMMERCIAL DISTRICT REGULATIONS**

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

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

### **5.051 OMP, Office-Medical-Professional Services District**

#### **(1) District Description**

This district is designed to provide for the provision of professional office services, medical and personal services, as well as financial, insurance, real estate and consulting services. In addition to the office activities, limited commercial trade and certain community facilities are permitted to serve to the needs of persons frequenting this district. This district may be used as a transition from residential to business or manufacturing zones. Therefore, it is intended to have uses that conduct business during regular business hours.

#### **(2) Uses Permitted**

In the Office-Medical-Professional Service District, the following uses and their accessory uses are permitted.

### Community Facility Activities

Administrative Services  
Community Education  
Cultural and Recreational Services  
Essential Services  
Health Care Facilities (Except Hospitals)  
Personal and Group Care Facilities  
Religious Facilities

### Commercial Activities

Automotive Parking  
Commercial Storage **(amended by Ordinance 2023-329, January 8, 2024)**  
Food and Beverage Service  
General Business and Communication Services (All except the following)  
    Vehicular and Equipment Rental and Leasing  
    Photofinishing Services  
General Personal Service (All except the following)  
    Barber and Beauty Schools  
    Business Schools  
    Dancing Schools/Exercise Studios  
Medical and Professional Services  
Self-Storage **(amended by Ordinance 2023-329, January 8, 2024)**

### (3) Accessory Uses and Structures

The following accessories are permitted in the OMP, Office-Medical-Professional Service District.

- (a) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (b) Accessory off-street parking and loading facilities as required in Article IV, Sections 4.010 and 4.020.
- (c) Accessory structures and uses customarily incidental to the permitted uses, provided that such accessory structures and uses are carried out on the same lot and are not otherwise prohibited.

### (4) Uses Permitted as Special Exceptions

In the Office-Medical-Professional Service District the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with provisions of this ordinance.

Financial, Consulting, and Administrative Services

### (5) Uses Prohibited

Any use or structure not allowable as permitted uses, conditional uses, temporary uses, or accessory uses are prohibited within the Office-Medical-Professional Service District.

(6) Dimensional Regulations

All uses permitted in the Office-Medical-Professional Service District, shall comply with the following requirements;

(a) Minimum Lot Size

Minimum Lot Area	20,000 sq. ft.
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(b) Minimum Yard Requirements

Front Yard Setback	
Arterial	50 ft.
Collector	30 ft.
Minor Streets	25 ft.

Side Yard Setback	10 ft.
except when adjoining a residential zone in which case the side setback shall be that of the residential district.	

Rear Yard Setback,	20 ft.
except when adjoining a residential zone in which case the rear setback shall be that of the residential district.	

(c) Maximum Lot Coverage

On any area or parcel of land, the area occupied by all buildings including accessory buildings, shall not exceed seventy (70) percent of the total area of such lot or parcel.

(d) Height Requirements

No building shall exceed thirty-five (35) feet in height.

(e) Parking Space Requirement

As regulated in Article IV, Section 4.010.

(f) Accessory Structures

Accessory structures shall be located at least five (5) feet from any lot line, and any building on the same lot.

(g) Landscaping Provisions

All sites shall be landscaped as per Article III, Section 3.110, of this ordinance.

**5.052     Reserved**

## 5.053 CC, Commercial Corridor District

### (1) District Description

This district is designed to provide adequate space in appropriate locations for uses which serve the needs of the motoring public. A wide variety of retail trade, service establishments, and other high traffic activities are permitted. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted.

### (2) Uses Permitted

In the CC, Commercial Corridor District, the following uses and their accessory uses are permitted.

#### Community Facility Activities

Administrative Services  
Community Assembly  
Community Education  
Cultural and Recreational Services  
Essential Services  
Health Care Facilities  
Intermediate Impact Facilities  
Personal and Group Care Facilities  
Religious Facilities

#### Commercial Activities

Animal Care and Veterinarian Services  
Automotive Parking  
Automotive Service and Repair (without outdoor storage)  
Building Materials and Farm Equipment  
Commercial Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Consumer Repair Services  
Convenience Commercial  
Entertainment and Amusement Services  
Financial, Consulting, and Administrative  
Food and Beverage Service  
Food Service - Drive-In  
General Business and Communication Services  
General Personal Service  
General Retail Trade  
Medical and Professional Services  
Self-Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Transient Habitation  
Undertaking Services  
Vehicular, Craft and Related Equipment

### (3) Accessory Uses and Structures

The following accessory uses are permitted in the Commercial Corridor District.

- (a) Signs in compliance with the regulations set forth in Town Ordinance 164.

- (b) Accessory off-street parking and loading facilities as required in Article IV, Sections 4.010 and 4.020.
- (c) Accessory structures and uses customarily incidental to the permitted uses, provided that such accessory structures and uses are carried out on the same lot and are not otherwise prohibited.

(4) Uses Permitted as Special Exceptions

In the Commercial Corridor District, the following uses and their accessory uses may be permitted as special exceptions, after review and approval in accordance with Article VIII.

Agricultural, Resources Production, and Extractive Activities

Plant and Forest Nurseries

Group Assembly

All

(5) Uses Prohibited

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses, or accessory uses are prohibited within the Commercial Corridor District.

(6) Dimensional Regulations

All uses permitted in the Commercial Corridor District, shall comply with the following requirements.

(a) Minimum Lot Size

Minimum Lot Area	20,000 sq. ft.
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(b) Minimum Yard Requirements

Front Yard Setback

Arterial Streets	50 ft.
Collector Streets	35 ft.

Side Yard Setback	10 ft.
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except where the side yard abuts or is adjacent to a residential district, in which case the minimum setback for that yard shall be fifty (50) feet.

Rear Yard Setback	25 feet
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except where the rear yard abuts or is adjacent to a residential district, in which case the minimum setback for that yard shall be fifty (50) feet.

(c) Maximum Lot Coverage

On any area or parcel of land, the area occupied by all buildings including accessory buildings, shall not exceed seventy (70) percent of the total area of such lot or parcel.

(d) Height Requirements

No building shall exceed forty (40) feet in height.

(e) Parking Space Requirement

As regulated in Article IV, Sections 4.010 and 4.020.

(f) Accessory Structures

Accessory structures shall be located at least five (5) feet from any lot line, and any building on the same lot. All accessory buildings shall be located to the rear of any primary structure except when functionally necessary.

(g) Landscaping Provisions

All sites shall be landscaped as per Article III, Section 3.110, of this ordinance.

**5.054 PC, Planned Commercial Center**

General Provisions

(1) Intent and Purpose

The Planned Commercial Center district utilizes a different process to the other commercial districts of this zoning ordinance. This zoning process allows for development of land in a well planned and coordinated manner. The provisions of this section shall be applicable only to the Planned Commercial Center District. This procedure is intended to provide opportunities for more efficient utilization of land than would otherwise be the case under the conventional provisions of this resolution. The planned commercial center provisions permit a greater mixing of land uses not easily accomplished by the application of conventional zoning district boundaries, or a framework for coordinating the development of land with provision of adequate roadways and public services. In return, the Planned Commercial Center District require a high standard for protection and preservation of environmentally sensitive lands, well planned living, working and shopping environments and timely provision of essential utilities and streets.

(2) Ownership and Division of Land

No tract of land may receive approval as a planned commercial center, unless such tract is under the unified control of a “landholder” as defined by this ordinance. Unless, otherwise, provided as a condition of approval of a planned commercial center, the landholder of an approved planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and shall use and maintain it in strict conformance with the adopted Master Development Plan.



A report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area shall be submitted along with any application for approval of a Master Development Plan. The report shall state agreement of all present property owners and/or their successors in title:

- (a) To proceed with the proposed development according to the regulations in effect when the map amendment, (including such modifications as are set by the City Council in the course of such action creating the planned commercial center district), becomes effective.
- (b) To provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the City Council in the course of such action.
- (c) To bind further successors in title to any commitments under Subparts (a), and (b), above.

(3) Master Plan Required.

No application for zoning under this article shall be considered unless a master plan meeting the requirements as described below is submitted therewith. In the event that the City Council amends the zoning map so as to zone any land area under this article, then no building permit shall be issued until a site plan has been approved by the Planning Commission.

(4) Staging of Development

The Planning Commission may elect to permit staging of the development, in which case, the following provisions shall apply.

- (a) Each stage shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed with subsequent stages will not have an adverse impact on the planned unit development or its surroundings.
- (b) Each stage of the development shall, at the time of approval of any final site development plan for any portion of that stage, be assured adequate public services to serve all development proposed for that stage.

(5) Administrative Procedure

The provisions of this section govern the procedure for approval as provided herein.

(6) Preliminary Approval of the Proposed Planned Commercial Center

(a) Pre-Application Conference

Prior to filing an application for approval of a planned unit development the applicant shall confer with any full time or consulting staff to discuss the procedure relative to the application. The town staff shall arrange a formal meeting where the applicant or his representative shall meet with other staff persons who will be involved in reviewing and recommending action on the proposed plan of development.

(b) Application for Preliminary Approval

Application for preliminary approval shall be made by the landholder of the affected property or his authorized agent to the Town of Burns in accordance with such written general rules regarding procedure, form of application, and required information as the Planning Commission may determine, provided such provisions are not inconsistent with the requirements set forth below.

(c) Preliminary Master Development Plan of a Planned Commercial Center

The preliminary master development plan for the proposed planned commercial center shall be a general concept plan which shall include the following:

- (i) The location and size of the area involved.
- (ii) Location of transportation routes including streets, driveways, sidewalks, pedestrian ways, and off-street parking and loading areas.
- (iii) Location and approximate dimensions of structures, including approximate height, bulk and proposed utilization of structures including activities and the number of living units.
- (iv) Proposed building materials to be used and/or specific materials or elements not to be used.
- (v) Reservations for public uses including parks and other open spaces.
- (vi) Other major landscaping features, and
- (vii) The general means of the disposition of sanitary wastes and stormwater.
- (viii) The type and proposed use for any common open space included within the proposed development.
- (ix) Areas to be used for outdoor sales display or storage.
- (x) A listing of land uses proposed for the development. Such listing of land uses may contain only land uses permit may limit or otherwise exclude certain uses.

(For example the applicant may request a PCC District and request all permitted uses in the Commercial Corridor and Business Park Districts, except mini-warehousing and automotive repair. Likewise the applicant could request a PCC District with a twenty-five thousand (25,000) square feet multi-tenant building and two out parcels to be limited to five thousand (5,000) square feet each with the uses for such to be restricted to banks or restaurants.)

- (xi) A tabulation of the land area to be devoted to various uses and activities and overall densities.

- (xii) The ownership of all property proposed for incorporation within the PCC District. A copy of all deeds along with written documents signed by all property owners indicating willingness to abide by the approved development plan.
- (xiii) The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities, drainage ways, common open space or common parking areas.
- (xiv) When it is proposed that the final master development plan will be submitted in stages, a schedule of proposed submissions thereof.
- (xv) Any other information that would be essential to the successful completion of the project such as TDOT approval for access locations, proof that environmental regulations could be met for State and Federal governments, and other similar information.

(7) Planning Commission Action on Preliminary Application for Planned Commercial Center

The Planning Commission shall take action on the preliminary application within two regularly scheduled meetings as follows:

- (a) Unconditional preliminary approval.
- (b) Conditional preliminary approval, in which the Planning Commission expressly denotes modifications which must be a part of the preliminary approval.
- (c) Disapproval.

(8) Conditional Preliminary Approval - Landholder's Response

When the Planning Commission's action is conditional preliminary approval, the commission shall specifically note in its minutes conditions or modifications which must be compiled with in order that the proposed planned unit development receive preliminary approval. Within ninety (90) days following the meeting wherein conditional approval is granted, the landholder may submit a revised preliminary master development plan which case the planned unit development is to be reviewed by the Planning Commission solely for the purpose of reviewing the revisions to the plan. When the landholder makes a negative reply or does not reply within ninety (90) days of the date of conditional preliminary approval the planned unit development shall be deemed as a recommendation for disapproval, unless such time limit is extended by specific action of the Planning Commission upon a written request of the landholder. In the event of a recommendation for disapproval the applicant may at his option proceed to the City Council with his request.

(9) Action by City Council

Upon completing preliminary development plan review the Planning Commission shall forward its report and recommendations to the City Council for action. Upon receipt of the Planning Commission's report to the City Council shall consider such report and recommendations, the preliminary development plan and such other

information as it may require. The City Council shall hold such required hearings and otherwise proceed in the manner set forth in this resolution for consideration of an amendment to the zoning resolution.

In any instance where the City Council may act to approve a preliminary development plan at first reading with the condition that items be amended so as to alter the development plan as it was considered by the Planning Commission such plan shall be returned to the Planning Commission for a recommendation. The Planning Commission shall at its next meeting vote to recommend to the City Council that such amended plan be either approved or disapproved but may not recommend that such amended plan be approved with new conditions set by the Planning Commission. In no case City Council vote to approve a development plan on final reading unless an identical plan had been considered by the Planning Commission.

(10) Planned Unit Development and the Official Zoning Map

Upon approval by the City Council, the Planning Department shall place the extent of the planned unit development on the official zoning map identified by the ordinance number providing approval.

(11) Recording of a Planned Commercial Center District

Within ninety (90) days following enactment of an adopting ordinance by the City Council, all owners shall record with the Register of Deeds a boundary plat or suitably comparable document identifying that the affected properties are subject to the provisions of a Planned Unit Development Overlay district. Suitable instruments indicating the nature and extent of all off-site improvements and special conditions to which the development is subject shall be recorded with such plat.

(12) Final Approval of a Proposed Commercial Center District

The approval by the City Council of the preliminary development plan shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval by the Planning Commission of the planned unit development shall be subject to the procedures and requirements of this section. No final development plan shall be approved unless it is demonstrated that substantial compliance to the master development plan as approved by the City Council.

(a) Application for Final Approval

Following approval of a preliminary master development plan by the City Council, the landholder may make application to the Planning Department for approval of final development plans for all or a portion, (provided the portion is consistent with the staging schedule approved with the preliminary development plan), of the proposed planned unit development. No action shall be taken on any final development plan for any portion of a planned unit development until the landholder demonstrates that all land included within the portion of the development for which final approval is requested is owned by the landholder and that any options have been closed.

The application for approval of the final development plan shall include all aspects of the preliminary application, the proposed final master development plan, other required drawings, specifications, covenants,

easements, and conditions and forms of bond as were set forth by the Planning Commission resolution of preliminary approval. Copies of legal documents required by the Commission for dedication or reservation of common open space and/or for creation of a nonprofit association shall be submitted with the final development plan.

(b) Final Approval of Stages

The application for final approval and the final approval by the Planning Commission may be limited to each stage as appropriate in a large planned unit development, in compliance with the staging plan approved as part of the preliminary development plan.

(c) Determination of Substantial Compliance

The final development plan shall be deemed in substantial compliance with the preliminary development plan provided modifications by the applicant do not involve changes which in aggregate:

- (i) Violate any provisions of this article;
- (ii) Vary the lot area requirement as submitted in the preliminary plan by more than ten (10) percent;
- (iii) Involve a reduction of more than five (5) percent of the area shown on the preliminary development plan as reserved for common open space.
- (iv) Increase the floor area proposed in the preliminary development plan for any use by more than two (5) percent; and
- (v) Increase the total ground area covered by buildings by more than two (5) percent.
- (vi) Involve any land use not specified on the approved preliminary development plan or the alternative list of uses for non-residential sites.

(13) Addition of Land Uses Not Included Within an Approved Preliminary Master Development Plan

No uses shall be allowed if such uses were not requested on the approved preliminary Master development plan. Any additional uses shall be considered a major change and shall necessitate returning a revised preliminary master plan to the Planning Commission for recommendation and being reheard by the City Council.

(14) Failure to Begin Planned Unit Development

If no "actual construction" has begun in the planned unit development within five (5) years from the date of approval of the final development plan, or section thereof, said approval shall lapse and be of no further effect. No further developmental activity may take place until the existing development plan is reinstated to an active status or a revised development plan meeting all conditions of this ordinance is approved.

(15) Maintaining a Current Development Plan

Building permits may be issued only within such portion(s) of a planned unit development for which a current final development plan is in effect. In spite of prior approvals, no action shall be taken in furtherance of any plan for a planned unit development for which a current final development plan is not in effect. In any instance where the approval of such plans may have lapsed due to noncommencement of actual construction, the following actions may be taken.

(a) Reinstatement of Previously Approved Development Plan

In the event that actual construction may not have begun and/or the approval of the final development plan shall have lapsed, such plan may be reinstated by action of the Planning Commission and development may proceed, provided that no change is proposed that would require amendment of the plan.

(b) Amending a Lapsed Development Plan

In the event that actual construction may not have begun, approval of the development plan shall have lapsed and revisions and/or alterations are proposed that exceed the minor site modifications authorized by Subsection \_\_\_\_\_ ~~8-8~~, and thus would require amendment of the plan, such action may be accomplished only upon approval of a new preliminary development plan.

(16) Building Permits and Use and Occupancy Permits

Building permits and use and occupancy permits shall be issued for uses, buildings and other structures in planned unit developments in accordance with this section; otherwise, permits and certificates shall be issued in accordance with the other provisions of this ordinance as applicable.

(a) Site plans

Site plans shall be provided in accordance with the provisions of Article IV, Section \_\_\_\_\_ ~~42~~.

(b) Building Permits

Building permits may be issued for structures, buildings, activities, or uses only in strict compliance with the adopted final development plan of the planned unit development, including any conditions of approval. No building permit shall be issued for the area included in a preliminary planned unit development until the final development plan has been approved.

(c) Use and Occupancy Permits

A use and occupancy permit may be issued only when the Zoning Administrator determines that the structure, building, activity, or use as a part of a planned unit development conforms with the adopted final development plan, including any conditions of its approval.

(17) Minor Site Modifications to an Adopted Final Master Development Plan

Minor modifications in the terms and conditions of the adopted final development plan may be made from time to time as provided in the following paragraphs. Any proposed modification not permitted under these provisions may be approved only as an amendment to the adopted final development plan.

(a) Minor Modifications During Construction

So long as no modification violates the basic policy and concept or bulk and open space regulations of the planned unit development as presented in the approved final development plan, the Planning Director may approve minor modifications in the location, siting, and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the final development plan was approved. The total of such modifications approved by the Planning Director shall never in aggregate result in:

- (i) Any change in use;
- (ii) An increase of more than three (3) percent in the floor area proposed for use of a commercial or industrial nature;
- (iii) An increase of more than three (3) percent in the total ground area covered by buildings; or
- (iv) A reduction of more than two (2) percent in the area set aside for common open space.

Minor modifications in the location of streets and underground utilities may be approved under this section.

(18) Resubdivision of a Planned Unit Development After Completion

A planned commercial center may be subdivided and re-subdivided for purpose of sale or lease after the certificate of completion has been issued under the procedures set forth below:

- (a) If the subdivision or resubdivision of planned development will create a new plot line, the applicant shall make application to the Planning Commission for approval of a subdivision or resubdivision. The Planning Commission may approve the subdivision or resubdivision of each section of the subdivided or re-subdivided planned development if it meets the provisions of this article governing density, common open space, and dimensional requirements.
- (b) All sections of a subdivided or re-subdivided planned development are to be controlled by the final development plan rather than by the provisions of the zoning ordinance that otherwise would be applicable.
- (c) The owners or lessees of a subdivided or re-subdivided planned development may jointly make application for a conditional use or for an amendment to the adopted final development plan.

## **5.060     INDUSTRIAL DISTRICTS**

### **A.     General Description**

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

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

## **5.061     BP, Business Park District**

### **(1)     District Description**

These districts are intended to provide space for a wide range of industrial and related uses which conform to a relatively low level of objectionable influences. It is required that all operations of industrial establishments be carried on within completely enclosed buildings thus providing a standard of development which removes most adverse characteristics that affect neighboring properties. These districts may provide a buffer between other districts and other industrial activities



which have more objectionable influences. New residential activities are excluded, but community facilities and commercial establishments which provide needed services for industry and are complementary thereto are permitted.

(2) Uses Permitted

In the BP, Business Park District, the following uses and accessory uses are permitted.

Community Facility Activities

Essential Services  
Extensive Impact Facilities

Commercial Activities

Adult Oriented Businesses  
Animal Care and Veterinarian Services Building Materials and Farm Equipment  
Bulk Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Commercial Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Construction Sales and Services  
Self-Storage (**amended by Ordinance 2023-329, January 8, 2024**)  
Wholesale Sales

Manufacturing Activities

Limited Manufacturing  
Intermediate Manufacturing

Agricultural, Resources Production, and Extraction Activities

Commercial Feed Lots and Stockyards  
Crop and Animal Raising  
Plant and Forest Nurseries

(3) Accessory Uses and Structures

The following accessory uses are permitted in the BP, Business Park District.

- (a) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (b) Accessory off-street parking and loading facilities as required in Article IV, Sections 4.010 and 4.020.
- (c) Accessory Structures and uses customarily incidental to the permitted uses, provided that such accessory structures and uses are carried out on the same lot and are not otherwise prohibited.
- (d) Day care centers are allowed as an accessory use to any Industrial Activity provided that such a use is carried out on the same premises. Such day care centers shall meet all State of Tennessee licensing requirements.

(4) Uses Permitted as Special Exceptions

In the BP, Business Park District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII.

Community Facility Activities

Administrative Services  
Intermediate Impact Facilities

Commercial Activities

Consumer Repair Services  
Construction Sales and Services  
Entertainment and Amusement Services  
Food and Beverage Service  
Food Service Drive-In  
Group Assembly

(5) Uses Prohibited

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses, or accessory uses are prohibited within the BP, Business Park District.

(6) Dimensional Regulations

All uses permitted in the Business Park District shall comply with the following requirements:

(a) Minimum Lot Size

Minimum Lot Area	20,000 sq. ft.
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(b) Minimum Yard Requirements

Front Yard Setback	50 ft.
Side Yard Setback,	20 ft.
except where the side yard	
abuts or is adjacent to a	
residential district, in which	
case the minimum setback for	
that yard shall be fifty (50) feet.	
Rear Yard Setback,	25 ft.
except where the rear yard	
abuts or is adjacent to a	
residential district, in which	
case the minimum setback for	
that yard shall be fifty (50) feet.	

(c) Maximum Lot Coverage

On any area or parcel of land, the area occupied by all buildings including accessory buildings, shall not exceed sixty (60) percent of the total area of such lot or parcel.

(d) Height Requirements

No building shall exceed forty (40) feet in height.

(e) Parking Space Requirement

As regulated in Article IV, Sections 4.010 and 4.020.

(f) Accessory Structures

Accessory structures shall be located at least five (5) feet from any lot line, and any building on the same lot.

(g) Landscaping Provisions

All sites shall be landscaped as per Article III, Section 3.110, of the ordinance.

**5.062 RESERVED**

**5.063 I-2, Special Impact Industrial District**

(1) District Description and Purpose

This district is designed to provide suitable areas for those uses which have some special impact or uniqueness such that their effect on the surrounding area and environment cannot be determined in advance of the use being proposed for a particular location. At the time the application is filed, a review of the location, design configuration and its impact will be conducted by comparing the proposed use, the preliminary development plan, the operational data, and the environmental assessments to the site location criteria. This review will evaluate whether the proposed use should be permitted through a rezoning to the I-2, Special Impact Industrial District, by weighing public need for and benefit to be derived from against the local impacts which it may cause. The review considers the proposal in terms of existing zoning and land use in the vicinity of the site, planned and proposed public and private developments which may be adversely affected by the proposed use, whether the proposed location is the most desirable site for this type of use, and to what extent the public health, safety, and general welfare of the citizens of Burns will be affected.

(2) Site Location Criteria

- (a) The proposed site will be located in areas apart from concentrations of residential developments and community facilities where concentrations of people will be present.
- (b) The proposed use will not pollute or deteriorate air quality, surface or subterranean water, or any other natural features.

- (c) The proposed site will not be located in an area that could contaminate the source of an existing public water supply.
- (d) The proposed site will be free of sinkholes, caves, caverns, or other karst features that would present significant potential for surface collapse or significant degradation to local ground water resources.
- (e) The proposed site will be adequately served by public utilities and services to ensure a safe operation.
- (f) The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentrations which would endanger community safety.
- (g) Access to the site will be from a road classified as an arterial or collector on the Major Road Plan for Burns.
- (h) The proposed lot size is sufficient so that no danger occurs to the adjoining uses.
- (i) The proposed site will not be located within a one hundred (100) year floodplain or wetland.

(3) Administrative Procedure

The provisions of this section shall govern all applications for rezoning to the I-2, Special Impact Industrial District.

(a) Preliminary Review

All applications for rezoning to the I-2, Special Impact Industrial District, shall be made by the landowner or his/her authorized agent to the Zoning Administrator in accordance with the provisions of this section. All applications for rezonings shall be accompanied by:

(i) Preliminary Development Plan to Include the Following Information

- a) Letter from the owner detailing the proposed zoning change.
- b) Location map of the proposed site, including size of the property.
- c) Site plan and topographic map prepared by a Tennessee licensed engineer or architect at a scale of one inch equals two hundred feet (1"=200').
- d) Land use evaluation, including all building locations and historical sites within a half mile radius of the proposed site, including property owners.
- e) Highway assessment indicating all roads with access to the property, showing the existing width, condition, type of surface, weight loads and existing traffic data, and

classification of all access roads according to the Major Road Plan.

- f) Location and approximate dimensions of all structures, including appropriate height and bulk and the utilization of all structures and land areas within the site.
- g) A tabulation of the land areas to be devoted to all uses and activities.
- h) Ability of the site to be able to meet the Site Location Criteria in Subpart (2), above, along with the General Requirements, in Subpart (8), and the Requirements for Specific Uses, in Subpart (9), below, for the proposed use of the property.

(ii) Operational Data to Include the Following Information

- a) Type of operation and detailed description of the operation.
- b) Average number of vehicles entering and leaving site on a daily basis and the routes taken.
- c) Types of Federal and State permits required for operation of the proposed facility.
- d) Safety measures to be used on site as well as the system for dealing with complaints.
- e) Ultimate use and ownership of the site after completion of operation. (Landfills only.)

(iii) Environmental Assessments to Include the Following Information

- a) Geological data on the site as prepared by a Tennessee licensed geologist.
- b) Effects of the proposed use on ground water quality in the area.
- c) Effects of the proposed use on air quality in the area.
- d) Potential danger to any surface water or water supply.

(b) Zoning Amendment

After review of the preliminary development plan, operational data, and environmental assessments, the planning commission shall recommend to the Town Council whether the proposed use should be rezoned to the I-2, Special Impact Industrial District. If the Town Council approves the zoning amendment, the landowner may proceed with his development by submitting a final development plan to the planning commission for their approval.

(c) Final Development Plan Review

After approval of the rezoning by the Town Council, the landowner may make application to the planning commission, for approval of the final development plan, provided that the plan is in compliance with the preliminary development plan. All final development plans shall include the following information:

(i) Final Development Plan shall Include the Following

- a) Final site plan prepared by a Tennessee licensed engineer or architect for the development to include, location of all buildings, interior roads and parking areas, detailed landscaping plan of the buffer zone prepared by a landscape architect, location and type of all fences, utilities, and all other features and facilities to be installed or used in connection with the proposed operation.
- b) Site plan to be at a scale of one inch equals two hundred feet (1"=200').
- c) Contours at vertical intervals of not more than two (2) feet where the proposed development has an average slope of five (5) percent or less, or at vertical intervals of not more than five (5) feet where the average slope exceeds five (5) percent (contours to be field surveyed or taken from aerial photographs acceptable to the planning commission).
- d) Stages of development of the site and the expected time of completion.
- e) Copies of all required Federal and State permits the applicant has obtained.
- f) Final site plan shall be in compliance with Subparts (8), (9), and (10), below for the proposed use of the property.

(ii) Site and Geological Data

- a) Soil and geology, with soil borings to a point of refusal, with a minimum of two (2) borings per acre.
- b) Final grading and drainage plan for the entire site, including surface drainage patterns, and all areas for surface water detention or retention.
- c) Ground water movements and aquifer information.
- d) Existing vegetation cover on the site.

(4) Uses Permitted

In the I-2, Special Impact Industrial District, the following uses are permitted:

Bulk Storage (**amended by Ordinance 2023-329, January 8, 2024**)

(a) Special Impact Facilities

Arsenals  
Atomic Reactors  
Explosives Manufacturing and Storage  
Fireworks Manufacturing  
Hazardous Wastes  
Radioactive Wastes  
Solid Waste Landfills  
Solid Waste Processing and Recycling  
Waste Incinerators, Including Hospital and Medical Waste  
Biosolids – Handling or Distribution

(5) Accessory Uses and Structures

- (a) Signs in compliance with the regulations set forth in Town Ordinance 164.
- (b) Accessory structures and uses customarily incidental to the permitted uses, provided that such accessory uses are carried out on the same lot and are not otherwise prohibited.
- (c) Accessory off-street parking and loading facilities as required in Article IV, Sections 4.010 and 4.020.

(6) Uses Permitted as Special Exceptions

There are no uses permitted as special exceptions in the I-2, Special Impact Industrial District.

(7) Uses Prohibited

In the I-2, Special Impact Industrial District, any use not permitted by right or by accessory use as defined above is strictly prohibited.

(8) General Requirements Applicable to All Uses

- (a) No excavation or filling shall be made within one hundred (100) feet of any boundary of the site.
- (b) Side slopes of excavation and fills in earth, sand or gravel shall not exceed one (1) foot vertical to three (3) feet horizontal and shall be blended into undisturbed existing surfaces.
- (c) A chain link wire fence six (6) feet high and three (3) strands of barbed wire over the top shall be installed along the boundaries of the area developed or the area of active operation and provided with gates of the same construction as the fence. The gates shall remain locked at all times when active operations are not taking place. All fences and gates shall be properly maintained until all operations are completed.
- (d) Provisions shall be made for the disposal of surface water falling on or crossing the site at all times, during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain.

- (e) The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or wells.
- (f) A layer of clean earth at least two (2) feet thick shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
- (g) The finished surface of the site shall bear the proper relationship to that of adjoining properties.
- (h) The installation of roads, parking areas, buildings, structures and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
- (i) The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other approved method.
- (j) The proposed site must have a public supply of water available, capable of providing the required fire flow to a fire hydrant on site.
- (i) Sanitary toilet facilities shall be provided on-site in accordance with the requirements of the Department of Environment and Conservation.

(9) Requirements for Specific Uses

(a) Requirements for Incinerators

- (i) No principal building or structure shall be located closer than two hundred (200) feet from any site boundary line, and no accessory building or structure used in conjunction with the operation shall be located closer than two hundred (200) feet from any site boundary line.
- (ii) All organic or combustible materials delivered to the site shall be burned in the incinerator.
- (iii) All residue resulting from the operations of the facility shall be disposed of in compliance with all state and federal regulations.
- (iv) All materials which are to be burned shall be placed on or in a concrete slab or hopper enclosed by a building, masonry walls or chain link type fencing at least six (6) feet high provided with doors or gates which shall be securely locked when the incinerator is not in operation. The materials shall be transferred from the slab or hopper or hopper into the incinerator as soon as they are received, but in any case all combustible materials shall be burned during the same day that they were delivered. The slab or hopper shall be kept clear of all materials when not in active use.



- (v) All separation or picking of waste materials shall be conducted in an enclosed building only.
- (vi) A watchman shall be stationed at the site at all times for whom a suitable shelter shall be provided.

(b) Requirements for the Manufacture or Storage of Explosives, Munitions or Fireworks

- (i) Any such facility shall not be located on a site having an area of less than fifty (50) acres.
- (ii) No principal building or structure shall be located closer than two hundred (200) feet from any site boundary line, and no accessory building or structure used in conjunction with the operation shall be located closer than two hundred (200) feet from any site boundary line.
- (iii) A security guard shall be stationed at the site at all times for whom a suitable shelter shall be provided.

(c) Requirements for Solid Waste Landfills

- (i) All areas used for filling operations shall maintain the minimum setback as required by this section.
- (ii) No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
- (iii) All separation or picking of waste materials shall be conducted in enclosed building only.
- (iv) The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method.
- (v) Entrance to the site shall be controlled at all times to prevent improper dumping on the site.
- (vi) Any such facility shall not be located on a site having an area of less than fifty (50) acres.

(d) Requirements for Hazardous and Radioactive Wastes

- (i) No principal building or structure shall be located closer than two hundred (200) feet from any site boundary line, and no accessory building or structure used in conjunction with the operation shall be located closer than two hundred (200) feet from any site boundary line.

- (ii) All residue resulting from the operations of the facility shall be disposed of in compliance with all State and Federal regulations.
- (iii) All areas used for filling operations shall maintain the minimum setback as required by this section.
- (iv) A security guard shall be stationed at the site at all times for whom a suitable shelter shall be provided.

(10) Dimensional Requirements

All uses permitted in the I-2, Special Impact Industrial District, shall comply with the following requirements:

(a) Minimum Lot Size

Minimum Lot Area	10 acres
Lot Width at Building Setback	500 ft.

(b) Minimum Yard Requirements

Front Yard Setback	150 ft.
Side Yard Setback	100 ft.

except where the side yard abuts or is adjacent to a residential zoned property, in which case the minimum setback for that side yard shall be one hundred-fifty (150) feet.

Rear Yard Setback	100 ft.
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except where the rear yard abuts or is adjacent to a residential zoned property, in which case the minimum setback for that side yard shall be one hundred-fifty (150) feet.

(c) Maximum Lot Coverage

On any lot or tract containing one or more structures, the area occupied by all structures, including accessory structures shall not exceed forty (40) percent of the total area.

(d) Height Requirements

No principal structure shall exceed forty (40) feet in height.

(e) Parking Space Requirements

As regulated in, Article IV, Subparts 7 and 8.

(f) Accessory Structures

- (i) With the exception of signs, fences, and security buildings, no accessory structures shall be erected in a required front yard.

- (ii) Accessory structures shall be located at least one hundred (100) feet from any side or rear lot line, twenty-five (25) feet from any building on the same lot.

(g) Peripheral Buffer Zone Requirements

A peripheral buffer zone of one hundred (100) feet shall be established and maintained throughout the life of the facility along all property boundaries. This buffer will consist of three (3) rows of trees and shrubs spaced no more than twenty (20) feet apart, staggered with each row being twenty (20) feet apart. A minimum of sixty (60) percent of all trees and shrubs placed in the buffer shall be evergreens or conifers. All trees planted on the site shall be a minimum of ten (10) feet in height that will mature at a height of at least forty (40) feet. In addition to the rows of trees, a row of shrubs in front of the trees is required along road frontage. In addition to the required plantings, it is recommended that manmade and natural berms be used to further the effectiveness of the natural planted buffer. The peripheral buffer should only be broken by driveways and walkways that provide access to the site. Any required fencing shall not be located within the buffer zone or between the buffer zone and the property boundaries.

(11) Performance Bond Required

Any application for final site plan approval shall be accompanied by a performance bond in the amount of the estimated cost of site improvements including, but not limited to water and sewer installation, parking lot and driveway paving, construction of fencing, screening, and landscaping. Such bond may be in form of cash, certified check, irrevocable letter of credit, or surety bond.

In the event that the applicant fails to comply with the approved site plan, the Zoning Administrator shall cause the bond to be forfeited and have the necessary improvements constructed or completed. The time for completion may be extended with the permission of the Planning Commission, upon the owner-builder furnishing a bond or letter of credit for any approved extended period. Posting of the required performance bond by the developer shall constitute prior permission for the proper designated parties to enter upon said property to complete these improvements.

## **ARTICLE VI**

### **EXCEPTIONS AND MODIFICATIONS**

#### **SECTIONS**

- 6.010 Scope
- 6.020 Nonconforming Uses
- 6.030 Exceptions to Height Limitations
- 6.040 Lots of Record
- 6.050 Exceptions to Front Setback Requirements
- 6.060 Absolute Minimum Lot Size

#### **6.010 SCOPE**

Article VI, of this ordinance, is devoted to providing for the necessary exceptions and modifications to the supplementary and specific zoning district provisions provided in Articles IV and V, respectively.

#### **6.020 NONCONFORMING USES**

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

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

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this ordinance are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

## **6.021     Provisions Governing Nonconforming Uses**

### **(1)     Applicability**

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

### **(2)     Construction or Use Permit Approved Prior to Ordinance Adoption**

Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) month period, and not discontinued until completion, except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a building permit, then such permit shall automatically lapse and the provisions of this ordinance shall apply.

### **(3)     Repairs and Alterations**

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

### **(4)     Zone Lot Containing Nonconforming Use**

A zone lot containing a nonconforming use shall not be reduced in area except to comply with Subpart (3), above.

### **(5)     Continuation of Nonconforming Use**

Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use is undertaken.

(6) Change of Nonconforming Use

(a) General Provisions

For the purpose of this ordinance, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

(b) Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

(c) Nonconforming to Conforming Use

Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

(7) Expansion of Nonconforming Uses

(a) General Provisions

Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions as set out below.

(b) Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

(c) Adequate Space for Expansion

No expansion or any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance. All required yard setback requirements must be adhered to in any such expansion project.

(d) Expansion Limited

Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land.

(8) Damage or Destruction

(a) General Provisions

Any nonconforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve any actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.

(b) Change in Use Prohibited

No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming uses (as regulated in Subpart (7), above) to other than a permitted use.

(c) Infringement upon Open Space Restricted

No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this ordinance.

(9) Discontinuance

When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of thirty (30) months, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

**6.030 EXCEPTIONS TO HEIGHT LIMITATIONS**

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

#### **6.040     LOTS OF RECORD**

The following provisions shall apply to all existing lots of record:

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

#### **6.050     EXCEPTIONS TO SETBACK REQUIREMENTS**

The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within two hundred (200) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within two hundred (200) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

#### **6.060     ABSOLUTE MINIMUM LOT SIZE**

In no case shall the Zoning Administrator or the Burns Board of Zoning Appeals permit a residence to be erected on a parcel with a total lot area of less than five thousand (5,000) square feet. This provision shall not apply to Planned Unit Developments or Cluster Subdivisions lawfully approved under this ordinance.



**ARTICLE VII**  
**(Deleted in entirety and replace with new ART VII by Ordinance 212, July 6, 2009)**

**FLOODPLAIN DISTRICT REGULATIONS**

**SECTION**

- 7.010 Statutory Authorization, Findings of Fact, Purpose and Objectives
- 7.020 Definitions
- 7.030 General Provisions
- 7.040 Administration
- 7.050 Provisions for Flood Hazard Reduction
- 7.060 Variance Procedures
- 7.070 Legal Status Provisions

**7.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

A. Statutory Authorization

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

B. Findings of Fact

1. The Town of Burns, Tennessee, Mayor and its Legislative Body wishes to establish 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 Town of Burns, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

C. Statement of Purpose

It is the purpose of this 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.

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 flood prone areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a flood prone area;
8. To establish eligibility for participation in the NFIP.

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

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

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

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

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

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

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

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

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

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

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

**"Historic Structure"** means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (3) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on the Town of Burns, 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) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck;
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

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

ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

**"Structure"** for purposes of this 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 (50) percent 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 (50) percent 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 (50) percent 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.

## **7.030 GENERAL PROVISIONS**

### **A. Application**

This Ordinance shall apply to all areas within the incorporated area of the Town of Burns, Tennessee.



B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the Town of Burns, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) Number 47043CV000A and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47043C0253C, 47043C0254C, 47043C0261C, 47043C0265C and 47043C0270C, dated, September 25, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

C. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

D. Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Burns, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and

expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Burns, Tennessee from taking such other lawful actions to prevent or remedy any violation.

#### **7.040 ADMINISTRATION**

##### **A. Designation of Ordinance Administrator**

The Town Building Inspector/Codes Administrator is hereby appointed as the Administrator to implement the provisions of this Ordinance.

##### **B. Permit Procedures**

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

##### **1. Application Stage**

- a. Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
- b. Elevation in relation to mean-sea-level to which any nonresidential 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 nonresidential floodproofed building will meet the floodproofing criteria in Section 7.050, Subsections A and B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

##### **2. Construction Stage**

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

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the

measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this 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, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community 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 Section 7.040, Subsection B.
7. Record the actual elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Section 7.040, Subsection B.

8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Section 7.040, Subsection 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 Town of Burns, 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.

#### **7.050 PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **A. General Standards**

In all areas of special flood hazard, the following provisions are required:

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

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this 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 Section 7.050, Subsection B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Section 7.050, Subsection A, are required:

1. Residential Structures

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

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 7.020). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on

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

2. Nonresidential Structures

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

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Section 7.020). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Section 7.040, Subsection B.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
  - i. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - ii. The bottom of all openings shall be no higher than one (1) foot above the finished grade;

- iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Section 7.050, Subsection B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - i. In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
  - ii. In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Section 7.020).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Section 7.050, Subsections A and B.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
  - i. Be on the site for fewer than one hundred-eighty (180) consecutive days;
  - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

- iii. The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

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

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Section 7.050, Subsection E).

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

Located within the Special Flood Hazard Areas established in Section 7.030, Subsection B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

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



2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 7.050, Subsections A and B.

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

Located within the Special Flood Hazard Areas established in Section 7.030, Subsection B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 7.050, Subsections A and B.

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

Located within the Special Flood Hazard Areas established in Section 7.030, Subsection B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2, below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Section 7.050, Subsections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 7.020). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 7.040, Subsection B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 7.050, Subsection B.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Town of Burns, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 7.050, Subsections A and B. Within approximate A Zones, require that those subsections of Section 7.050, Subsection B, dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

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

Located within the Special Flood Hazard Areas established in Section 7.030, Subsection B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Section 7.050, Subsections A and B, apply:

1. All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 7.050, Subsection B.
2. All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as

set forth above and as required in accordance with Section 7.040, Subsection B.

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

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

Located within the Areas of Special Flood Hazard established in Section 7.030, Subsection B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Sections 7.040 and 7.050, shall apply.

H. Standards for Unmapped Streams

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

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Sections 7.040 and 7.050.

## **7.060 VARIANCE PROCEDURES**

A. Municipal Board of Zoning Appeals

1. Authority

The Town of Burns, 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 fifty (\$50) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty-five (35) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- i The Town of Burns, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- ii Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
- iii In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this 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.
- iv. 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.
  - v. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Conditions for Variances

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Section 7.060, Subsection A.
- 2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

#### **7.070 LEGAL STATUS PROVISIONS**

A. Conflict with Other Ordinances

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the Town of Burns, Tennessee, the most restrictive shall in all cases apply.

B. Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

C. Effective Date

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of the Town of Burns, Tennessee, and the public welfare demanding it. **(Amended Article VII, by Ordinance No. 212, June 6, 2009)**

## ARTICLE VIII

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 8.010 Administration of the Ordinance
- 8.020 The Enforcement Officer
- 8.030 Zoning Compliance Permit (Building Permits)
- 8.040 Temporary Use Permits
- 8.050 Town Board of Zoning Appeals
- 8.060 Variances
- 8.070 Reserved
- 8.080 Amendments to the Ordinance
- 8.090 Penalties
- 8.100 Remedies
- 8.110 Validity
- 8.120 Interpretation
- 8.130 Effective date

#### **8.010 ADMINISTRATION OF THE ORDINANCE**

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

#### **8.020 THE ENFORCEMENT OFFICER**

The provision of this ordinance shall be administered and enforced by the Burns Zoning Administrator. The Zoning Administrator shall administer and enforce this ordinance, in addition, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments thereto.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Receive, file and forward to the planning commission all matters on which the planning commission is required to act under this ordinance.
- G. Conduct inspections as required in this ordinance and other inspections as are necessary to ensure compliance with the various other general provisions of this ordinance. The Zoning

Administrator shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

#### **8.030 ZONING COMPLIANCE PERMIT (BUILDING PERMITS)**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including expansion, including accessory structures, to use a building or structure, or to commence the filling of land without a permit therefore, issued by the Zoning Administrator.

No Building Permit shall be issued by the Zoning Administrator except in conformity with the provisions of this ordinance, unless there is a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this ordinance.

##### **A. Application for a Building Permit**

Application for a Building Permit shall be made in writing to the Zoning Administrator on forms provided for that purpose. Applications for Building Permits will be accepted only from persons having legal authority to take action in accordance with the permit. In general, this means that the application should be made by the owners or leasees of the property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons. The Zoning Administrator may require an applicant to submit evidence of his authority to submit the application for a building permit whenever there appears to be a reasonable basis for questioning this authority.

All applications shall be complete before the Zoning Administrator is required to consider the application. It is not necessary that the application contain construction drawings to determine compliance with all the requirements of this ordinance, so long as the plans provide sufficient information to allow the Zoning Administrator to evaluate the application in light of the substructure requirements set forth in this ordinance.

##### **B. Site Plan Requirements**

Site plans containing the information required for the particular use by this section must be submitted to the Zoning Administrator at the time of an application for a building permit. It is specifically anticipated that the approval process for one and two-family detached houses shall be administratively approved by the Zoning Administrator. All other uses shall only be approved in the manner set forth in Article VIII, Section 8.030, D, below.

##### **C. Site Plans Required for Single-Family Detached and Duplex Houses**

1. The actual shape, location, and dimensions of the lot to be built upon.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
3. The existing and intended use of all such buildings or other structures, upon it, including the number of dwelling units the building is intended to accommodate.
4. The size and location of all yards and open areas required by this ordinance.



5. The dimension and location of all public water and sewer lines from which the property is to be served.
6. The location and approximate dimension of all points of access to a public street or road.
7. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
8. Where subsoil sewage disposal is anticipated, certification from the Burns County Environmental Office approving the lot for such use.

D. Site Plans Required for All Other Buildings and Activities

This procedure is to be utilized for all buildings and activities except those subject to the provisions of Article VIII, Section 8.030, C. Unless, otherwise, specified, the reviewing agency shall be the Burns Municipal Planning Commission. Proposals for multi-family developments and mobile home parks shall follow separate provisions outlined elsewhere in this ordinance, but such proposals shall also be reviewed by the planning commission. The specific requirements to be shown on such site plans are found in Article III, Section 3.130, of this ordinance.

E. Fee

The Burns Town Council shall establish a schedule of fees and a collection procedure for Site Plans. The schedule of fees shall be posted in the Burns Office of Planning and Zoning. Only the Town council may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

F. Issuance of Permit

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

G. Construction Progress

Any Building Permit issued becomes invalid if work authorized is not commenced within such a time as required by the building code as adopted by the Town of Burns.

**8.040 TEMPORARY USE PERMITS**

It shall be unlawful to commence construction or development of any use of a temporary nature, unless a permit has been obtained from the Zoning Administrator, as provided for in Article IV, Section 4.030, of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Zoning Administrator on the form provided for that purpose.

## 8.050 TOWN BOARD OF ZONING APPEALS

A Burns Board of Zoning Appeals (hereafter referred to as the Board) is hereby established in accordance with 13-7-206 through 13-7-209, of the Tennessee Code. The Burns Town Council shall fix any compensation for members of the Board.

### A. Procedure

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the citing chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon. The records and minutes shall be filed in the office of the Zoning Administrator and shall be a public record.

### B. Appeals to the Board

An appeal to the Burns Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by any decision of the Zoning Administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appeals was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

### C. Powers of the Board

The Board of Zoning Appeals shall have the following powers:

#### 1. Administrative Review

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Zoning Administrator or other administrative official in the carrying out of enforcement of any provision of this ordinance.

#### 2. Special Exceptions

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

#### 3. Variances

To hear and decide applications for variances from the terms of this ordinance.

### D. Rules and Regulations 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 (3) members of the Board shall constitute a quorum and a majority vote 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 a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Burns at least ten (10) days before the hearing of an appeal. No appeal shall be considered and heard by the Board less than fifteen (15) days after filing such appeal. If new information is uncovered regarding an action of the Board that could not have been reasonably presented in a public hearing before the Board, the Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.
3. The Board may call upon any other office or agency of the Town government for 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. Any officer, agency, or department of the Town or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by State law.
5. Any decision made by the Board on a special exception shall indicate the specific section of this ordinance under which the permit is being considered and shall state clearly the specific conditions imposed in granting such permit.
6. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board, good, and sufficient cause being shown.
7. 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.

E. Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed, otherwise, than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Zoning Administrator, and on due cause shown.

F. Liability of Board Members, Zoning Administrator and Employees

Any board member, Zoning Administrator, or other employee charged with the enforcement of this ordinance, acting for Burns within the scope of the responsibilities assigned him under this ordinance shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the Town of any damage that may occur to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any board member, Zoning Administrator, or employee charged with the enforcement of any provision of this ordinance

shall be defended by legal representatives furnished by the Town of Burns until the final termination of such proceedings.

G. Right of Entry upon Land

Upon notice to property owners, 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.

H. Rehearings

1. No Rehearing of the Decision by the Board Shall Be Had, Except:

- a. On motion to reconsider the vote; or
- b. On a written request for a hearing.

2. If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by ordinance in each case, stipulate.

3. No request to grant a rehearing will be entertained unless new evidence is submitted which could not reasonably be presented at the previous hearing.

If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

4. No rehearing for a variance shall be granted an applicant found by a court of competent jurisdiction to be in willful violation of the express provisions of a prior variance granted under the authority of this article.

**8.060 VARIANCES**

The purpose of this procedure is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Hearing

Upon receipt of an application the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardship. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below. A fee as established by the Town shall be charged to cover review and processing of each application for a variance.

C. Standards for Variances

The Board shall not grant a variance except where special circumstances or conditions, fully described in the findings of the Board, do not apply generally in the district. The burden of showing that the variance should be granted shall be upon the person applying for the variance. In granting a variance, the Board shall ascertain that the following criteria are met:

1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
3. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other land structures, or buildings in the same district.
4. Financial returns only shall not be considered as a basis for granting a variance.
5. The variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
6. The variance will not authorize activities, otherwise, excluded from the particular district in which requested.
7. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning district wherein such property is located or of the general provisions of this ordinance.
8. That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
9. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

D. Restrictions and Variances

1. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. Under no circumstances shall the Board of Zoning 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.
3. The Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out in Article VIII, Section 8.060, C, above, to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this ordinance. The Board may establish expiration dates as a condition or as a part of any variances.

**8.070 PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS (added by Ordinance 297, August 3, 2020)**

The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance, or whether a review is requested by the Zoning Administrator to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application

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

B. Criteria for Review

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning all the following general conditions where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to Items 1 and 2, above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.
8. General compatibility with adjacent properties and other property in the district.

C. Restrictions

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

D. Validity of Plans

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

E. Time Limit

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a **written** notice of approval or denial.

F. Special Conditions for Religious Facilities

As defined in Article II of this Ordinance, Religious Facilities are activities and their facilities utilized by various religious organizations for worship or related religious service functions. The Board shall review all religious facilities permitted by special exception for compliance with the bulk standards of this Ordinance and the special conditions below:

1. The location, size, and design of such facilities shall be situated so that the proposed facility is compatible with the development within the surrounding area thus reducing the impact upon such area.
2. A site plan with details of the development proposal as required in Article III, Section 3.130.
3. All bulk standards of the applicable zoning district shall be met as specified in Article V.
4. The location of off-street parking areas, loading and unloading areas, vehicular circulation areas, and accessory and temporary storage areas.
  - a. *Off-street parking, loading/unloading areas*: please refer to Article IV, Sections 4.010 (F) and 4.013 for minimum parking space and parking lot design requirements
  - b. *Accessory/temporary storage structures*: structures are allowed in any yard except the designated front yard, screened from public view, and situated a minimum distance from the side and rear property lines
5. The landscaping and buffer strip requirements in the Burns Design Review Manual shall be met. When making decisions regarding the landscaping or screening of a site, the Board may consider any circumstances such as the proximity of the facility to existing structures, the topography of the area, and any existing vegetation on nearby properties in determining whether additional screening of the facility from adjoining properties through the use of vegetative buffers, earth berms, privacy fences or a combination is needed.
6. Proposed lighting details shall be provided with the site plan. The applicant should demonstrate that any lighting provided at such facilities shall be installed and designed on-premises so that no direct light falls on adjacent residential property.

7. All proposed signage shall be subject to the standards provided in Title 14 of the Burns Municipal Code.

G. Special Conditions for Personal and Group Care Facilities

As defined in ART II of this Ordinance, Personal and Group Care Facilities provide for the care of children, disabled and handicapped persons needing special care or supervision, care for the elderly and other individuals requiring supervised care, but excluding facilities for delinquent, criminally dangerous, or psychotic people. The BZA shall review all personal and group care facilities permitted by special exception for compliance with the bulk standards of this Ordinance and the special conditions below:

1. The location, size, and design of such facilities shall be situated so that the proposed facility is compatible with the development within the surrounding area thus reducing the impact upon such area. No such facility shall be permitted on a lot unless such lot contains one (1) acre.
2. A site plan with details of the development proposal as required in ART III, Section 3.130.
3. All bulk standards of the applicable zoning district shall be met as specified in ART V.
4. Any requirements of the State of Tennessee that pertain to the use shall be met.
5. For all Day Care Centers, Drop in Centers, and Family and Group Child Care Homes, the facility shall meet all applicable state and local regulations. Off-street drop-off and pickup locations should be provided on premises to minimize conflict points within the residential districts. Please refer to ART IV, Section 4.013 for parking lot design requirements. The minimum required number of off-street parking spaces shall be determined by the BZA, as provided in ART IV, Section 4.010 (N.) The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.
6. All facilities shall be adequately screened from adjoining agricultural and residential uses by either an evergreen screen, a decorative wall/fence with an evergreen screen, a berm with an evergreen screen, or other suitable alternative as required by the BZA. Please refer to the Burns Design Review Manual for landscaping and buffer strip requirements. When making decisions regarding the landscaping or screening of a site, the BZA may consider any circumstances such as the proximity of the facility to existing structures, the topography of the area, and any existing vegetation on nearby properties in determining whether additional screening of the facility from adjoining properties through the use of vegetative buffers, earthen berms, privacy fences, or a combination is needed.
7. Any proposed lighting details shall be provided with the site plan. The applicant should demonstrate that any lighting provided at such facilities shall be installed and designed on-premises so that no direct light falls on adjacent residential property.



8. All proposed signage shall be subject to the standards provided in Title 14 of the Burns Municipal Code.

#### H. Special Conditions for All Other Community Facilities

1. No such facility shall be permitted on a lot unless such lot contains at least one (1) acre.
2. A site plan with details of the development proposal as required in ART III, Section 3.130.
3. All bulk regulations of the zoning district shall be met as specified in ART V.
4. The location and design of off-street parking areas, loading and unloading areas, vehicular circulation areas, and accessory and temporary storage areas per ART IV. The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.
5. The landscaping and buffer strip requirements in the Burns Design Review Manual shall be met. When making decisions regarding the landscaping or screening of a site, the Board may consider any circumstances such as the proximity of the facility to existing structures, the topography of the area, and any existing vegetation on nearby properties in determining whether additional screening of the facility from adjoining properties through the use of vegetative buffers, earth berms, privacy fences or a combination is needed.
6. Any regulations of the State of Tennessee pertaining to the use shall be met.
7. Any proposed lighting details shall be provided with the site plan. The applicant should demonstrate that any lighting provided at such facilities shall be installed and designed on-premises so that no direct light falls on adjacent residential property.
8. All proposed signage shall be subject to the standards provided in Title 14 of the Burns Municipal Code.

#### **8.080 AMENDMENTS TO THE ORDINANCE**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the Burns Town Council. Any member of the Town council may introduce such legislation, or any official, board, or any other person may present a petition to the Town council requesting an amendment or amendments to this ordinance.

No amendment to this ordinance shall become effective unless it is first submitted to the Burns Municipal Planning Commission for review and recommendation. If the planning commission disapproves the amendment, it shall require the favorable vote of a majority of the Town council to become effective.

No change or departure from the text or maps as certified by the planning commission shall be made, unless such change or departure be first submitted to the planning commission and approved by it, or, if disapproved, received the favorable vote of a majority of the entire membership of the Town council.

Before finally adopting any such amendment, the Town council shall hold a public hearing thereon, at least fifteen (15) days' notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the Town; and any such amendment shall be published at least once in the official newspaper of the Town or in a newspaper of general circulation in the Town.

#### **8.081     Application for Rezoning**

A proposed change of zoning district boundaries shall be initiated by the filing of an application with the Burns Municipal Planning Commission. Said application shall contain:

- (1) The name and address of the owner and/or owners of the subject property, and the written certification of the authorized agent.
- (2) A written legal description of the subject property including the Burns Tax Plat number and acreage.
- (3) A description of the proposed zone change, modification or repeal together with written justifications for the requested zone change.
- (4) The names and addresses of the adjacent property owners including those property owners across streets, roads, highways, and/or railways, and waterways which border the applicant's property.
- (5) Two (2) copies of a map depicting the property requested for rezoning. These maps shall be at a scale of no less than 1"=100' and no larger than 1"=30' and show the following information:
  - (a) Title, north arrow, graphic scale, date, civil district, and the acreage of the property to be rezoned.
  - (b) Dimensions in feet of property to be rezoned.
  - (c) All roads and easements within or adjoining property to be rezoned.
  - (d) Location, size, type and current use of any building on the property requested for rezoning.
  - (e) Location of the adjoining property owners in relation to the property to be rezoned.

#### **8.090     PENALTIES**

Any persons violating any provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violations continue shall constitute a separate offense.

#### **8.100     REMEDIES**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this ordinance, the Zoning Administrator or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection,

construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

#### **8.110    VALIDITY**

Should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, this judgement shall not affect the validity of this ordinance as a whole or any other part of this ordinance be judged invalid or unconstitutional.

#### **8.120    INTERPRETATION**

Whenever the conditions of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or any other resolution, the provisions which are more restrictive shall govern.

#### **8.130    EFFECTIVE DATE**

This ordinance shall take effect from and after the effective date of its passage and publication as required by law, the public welfare requiring it.

Certified by the Burns Municipal Planning Commission.

December 4, 2007  
Date

Regina P. Bullion  
Chairperson

December 4, 2007  
Date

Brian Burr  
Secretary

Approved and adopted by the Town Council of Burns, Tennessee.

December 4, 2007  
Date

Jeff Bishop  
Mayor

December 3, 2007  
Date

Carol R. Sullivan  
City Recorder