

ZONING ORDINANCE



WHITWELL, TENNESSEE

PREPARED AND RECOMMENDED BY THE:

WHITWELL MUNICIPAL PLANNING COMMISSION

February 27, 2014

ADOPTED BY THE:

WHITWELL BOARD OF MAYOR AND COMMISSIONERS

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**ZONING ORDINANCE
OF THE CITY OF WHITWELL, TENNESSEE**

ARTICLE 1

INTRODUCTION

1.01 AUTHORITY

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED IN SECTIONS 13-7-201 THROUGH 13-7-210, TENNESSEE CODE ANNOTATED, TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF WHITWELL, TENNESSEE; TO REGULATE WITHIN SUCH DISTRICTS THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT OCCUPANCY, THE SIZE OF OPEN SPACES, THE DENSITY OF POPULATION AND THE USES OF LAND, BUILDINGS AND STRUCTURES: TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF WHITWELL, TENNESSEE, AS FOLLOWS:

1.02 TITLE

This ordinance shall be known as the "Municipal Zoning Ordinance of the City of Whitwell" dated May 1, 2014. The map herein referred to as the "Municipal Zoning Map of Whitwell, Tennessee," dated May 1, 2014, and all explanatory matter thereon is hereby adopted and made a part of this ordinance.

1.03 PURPOSE AND INTENT

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fires, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of property and encouraging the most appropriate use of land throughout the city.

1.04 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 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.

ARTICLE 2

DEFINITIONS

2.01. PURPOSE

The purpose of this article is to clarify the meaning of certain words as they are used in these regulations.

2.02. INTERPRETATION OF CERTAIN TERMS AND WORDS

Unless otherwise stated, the following words shall for the purpose of this ordinance have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural, and the plural, the singular. The word "shall" is mandatory, not directory. Terms not herein defined shall have the meaning customarily assigned to them.

2.03. LIST OF GENERAL DEFINITIONS:

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

Accessory Building. A subordinate building, the use of which is incidental to that of a main building and located upon the same lot therewith.

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

Addition (To an Existing Building). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

Adult. Any person eighteen (18) years of age or older.

Adult-Oriented Establishments. Sexually explicit establishments which cater to an exclusively or predominantly adult clientele, including but not limited to: adult bookstores, adult motion picture theaters, adult mini-motion picture and video establishments, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, videos, or other visual media, as defined in TCA 7-51-1102 and TCA 7-51-1401, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. It also includes, without being limited to, any adult entertainment studio or any premises that is

physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, or any other term of like import as well as other enterprises which regularly feature materials, acts or displays involving complete nudity, specified sexual activities, or exposure of specified anatomical areas:

1. Specified anatomical areas including less than completely and opaquely covered:
 - a. Human genitals and pubic region
 - b. Buttocks
 - c. Female breast below a point immediately above the top of the areola; and
 - d. Human male genitals in a discernibly turgid state; and/or sexual excitement or enticement.
2. Specified sexual activities include:
 - a. Human genitals in a state of sexual stimulation or arousal
 - b. Acts of human masturbation, sexual intercourse or sodomy
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts

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

Alley. A public or legally established thoroughfare, other than a street, which affords a secondary means of access to abutting property.

Automobile Wrecking, Junk, and Salvage Yards. Any lot or place which is exposed to the weather and upon which more than three motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, dismantled, sold, or found.

Automobile Service Station. Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, compressed natural gas, oil (but not butane or propane fuels), or automobile accessories, the location of electric charging stations and incidental services

including facilities for lubricating, car washing and cleaning or otherwise servicing automobiles, but not including painting or major repair.

Average Ground Elevation. The elevation of the mean finished grade at the front of a structure.

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

Board. Whitwell Board of Zoning Appeals.

Body Piercing. The piercing of any part of the body for compensation by someone, other than a physician licensed under Tennessee Code Annotated Title 63, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non-medical purposes; body piercing includes ear piercing.

Building. Any structure having a roof supported by columns or walls, including tents, lunch wagons, dining cars, mobile homes, both single, double-wide, and/or modular homes, and similar structures whether stationary or movable.

Buildable Area. The portion of a lot remaining after required setbacks have been provided.

Building Inspector. The Zoning and Codes Officer appointed by the Whitwell Board of Mayor and Aldermen, or his/her authorized representative.

Building, Main, or Principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is situated.

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

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District. Any section or sections of Whitwell, Tennessee, for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.

Dwelling. A house, mobile home, apartment building, boarding house, tourist home, or other structure designed or used primarily for human habitation. For the purpose of this ordinance the word "dwelling" shall not include a travel trailer, hotel, motel, or tourist court.

1. Single-Family Dwelling. A detached building designed to be occupied exclusively by one family.
2. Apartment. A housing structure containing three (3) or more separate dwelling units.
3. Dwelling Unit. That area in a dwelling structure designed and constructed for the occupancy of one family.
4. Group Housing Development. Two (2) or more dwellings located on the same tract in one ownership and constructed as a planned development.
5. Mobile Home or House Trailer. A detached residential dwelling designed for transient use when utilized with a motor vehicle, and considered as a permanent dwelling when all sanitary and utility connections are in place.
6. Mobile Home Park. A place or tract of land upon which two (2) or more homes, occupied for dwelling or sleeping purposes are located.

Electric Vehicle Charging Station. A public or private parking space located together with battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. A restricted electric vehicle charging station is privately or publicly owned and available to the public.

Family. One or more persons related by blood, marriage, or adoption, or a group of not to exceed five (5) persons not all related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a board or lodging house, hotel, club, or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

Flea Market. Any premises, open air or under roof, where the principle use is the occasional or periodic sale of new and used household goods, clothing and apparel, personal effects, tools, works of art or craft, small household appliances and similar merchandise, objects, or equipment in small quantities, broken lots or parcels, but not in bulk, for use or consumption by the immediate purchaser. Sales of prepared foods for immediate consumption or home baked goods may be allowed. This shall not include sidewalk sales, and occasional yard sales and charity sales held on the owner or sponsor's premises or on a public sidewalk immediately adjacent to said premises.

Frontage. The width of the property measured along the dedicated street right-of-way.

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

Group Home. A residential facility which offers a home-like environment for intellectually disability, mentally handicapped, or physically handicapped residents, on either a permanent or temporary basis.

Halfway House. A temporary residential living arrangement for persons leaving an institutional setting and in need of a supportive living arrangement in order to readjust to living outside the institution.

Health Department. The Marion County Health Department.

Height of Building. The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

Home Occupation. A lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling provided that the space used is incidental to residential use.

Junk Yard or Salvage Yard. A lot, land or structure, or part thereof, used primarily for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storing and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

Loading Space. A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of a vehicle.

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

Lot Area. The total surface area land included within lot lines.

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

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

Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, Interior. A lot other than a corner lot.

Lot, Lines. The boundary dividing a given lot from the street, an alley or adjacent lots.

Lot Width. The width of a lot at the building setback line measured at right angles to its depth.

Manufactured Home. A structure, transportable in one (1) or more sections, which in traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For the purpose of these regulations, the term “manufactured home” does not include “mobile homes” as herein defined. A manufactured home having the same general appearance as a site built home shall be allowed on individual lots in any residential district.

Medical Facilities.

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

Minimum Floor Elevation. The lowest elevation permissible for the construction, erection, or other placement of any floor including a basement floor.

Mobile Home (trailer/single-wide). A detached single-family dwelling unit, which is constructed as a single self-contained unit and mounted on a single chassis designed to be used with or without a permanent foundation and has any or all of 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.
2. Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.
3. Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, locations of foundation supports, connection to utilities and the like.

Mobile Home Park. An area or tract of land used by the landowner for the accommodation of two (2) or more mobile homes to be used as a dwelling of sleeping purposes.

Motor Home. A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Nonconforming Use. A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated.

Noxious Matter. Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions or detrimental effects on the social, economic, or psychological well-being of individuals.

Off-Street Parking Space. A yard, space, or area off the road right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

Open Space. An area on the same lot with a main building which is open, unoccupied and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot.

Parking Lot. An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for ingress and egress, designed so as to be usable.

Parking Space. An off-street space available for parking one motor vehicle and having an area of not less than one hundred and eighty (180) square feet exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

Planning Commission. The Whitwell Municipal Planning Commission.

Plat. A map, plan, plot, or layout indicating the location and boundaries of individual properties.

Principal Use. The specific primary purpose for which land or a building is used.

Public Uses. Public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

Recreational Vehicle. A vehicle which is: built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projections; designed to be self-propelled or

permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use

Right-of-Way. The strip of land over which a public road is built or land which is reserved for future road construction.

Roadway. The actual road surface which is utilized to transport motor vehicles including necessary road shoulders and drainage facilities including ditches, curbing and guttering.

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

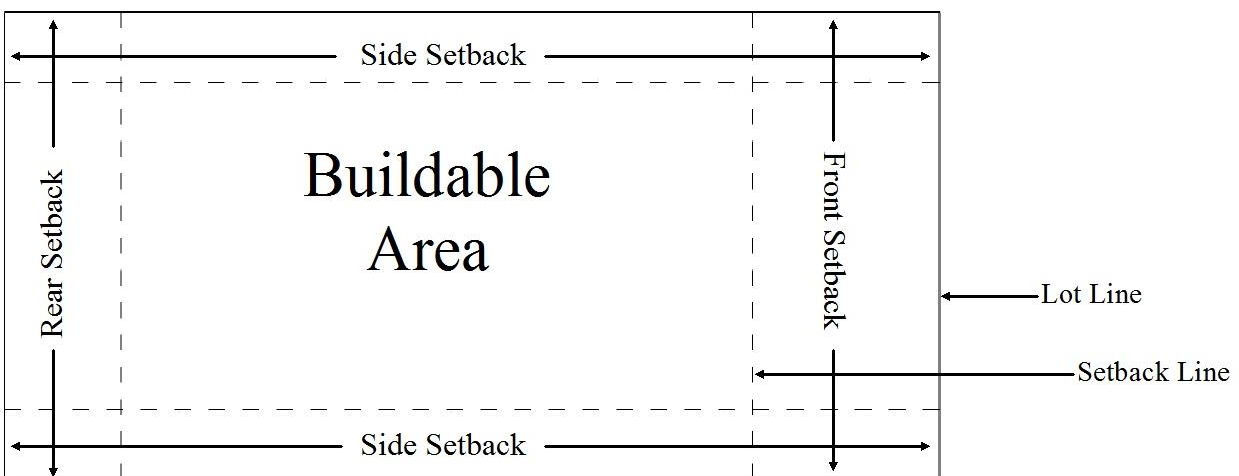
Sanitary Sewer. A municipal or community sewerage collection, treatment, and disposal system of a type approved by the State Department of Environment and Conservation.

Setback. The required minimum distance from the street right-of-way line or any other lot line that establishes the area within which a structure must be erected or placed. (For the purposes of this ordinance, setbacks are not applicable to fences.)

Setback, Front. A line across the full width of a lot parallel to and at the required distance from the front lot line.

Setback, Rear: A line across the full width of a lot parallel to and at the required distance from the rear lot line.

Setback, Side: A line through the full depth of a lot parallel to and at the required distance from each side lot line.



Shelter, Fall-Out. A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fall-out, air raids, storms, or other emergencies.

Sign, Billboard, or Other Advertising Device. Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city or other political unit.

Special Exception. Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the board, that he will meet certain enumerated safeguards or qualifying conditions.

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

Street. Any public or private thoroughfare which affords the principal means of access to abutting property.

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

Swimming Pool, Outdoor. Any pool or open tank not located within a completely enclosed building capable of containing water to a depth of greater than one and one-half (1-1/2) feet at any point.

Tattoo Parlor. Any room or space where tattooing, any method of placing designs, letters, figures, symbols, cosmetics or any other marks under the skin of a person with ink or color by the aid of needles or instruments, is practiced or where the service of tattooing is conducted.

Telecommunications Structure. A building, tower, or other structure and equipment used for the transmission, re-transmission, broadcast, or promulgation of telephone, telegraph, radio, television, or other electronic communications signals.

Toxic Materials. Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred and twenty square feet (220 sq. ft.), excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

Usable Floor Space. Floor space used for retail sale or display; includes permanent outdoor sales, but excludes outdoor motor vehicle sales areas.

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

Vegetative Barrier: A permanent barrier of dense vegetation meant to serve as a buffer between uses.

Video Arcade Any place where three (3) or more games using computer technology and type of video display are available for use by the public, whether or not another business is conducted on the premises.

Yard, Front. The required open space, unoccupied by buildings, between the road or street right-of-way line and the principal building.

Yard, Rear. The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

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.

ARTICLE 3

ESTABLISHMENT OF DISTRICTS

3.01 ADOPTION OF ZONING DISTRICT MAP

The City of Whitwell is hereby divided into zones, or districts, as shown on the Official 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 Whitwell, Tennessee. The zoning map or zoning map amendment shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment. Certified copies of the adopted zoning map or zoning map amendment shall be maintained in city hall and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

3.02 BOUNDARIES OF DISTRICTS

3.02.1. Unless otherwise indicated on the zoning map, the boundaries are lot lines, the centerlines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of this ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.

3.02.2. Where a district boundary divides a lot, as 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 be extended twenty (20) feet into the more restricted district within said lot.

3.02.3. Where property on one side of a street between two intersecting streets is in a business or industrial district and the property on the intersecting street, except the corner or corners, is in a residential district, the business or industrial use shall be limited to the property facing or fronting the street zoned for business throughout the block and any property in the rear thereof facing or fronting the intersecting, even though it appears to be in a business or industrial district, shall be governed by the use prevailing on the intersecting street. It is the purpose of this ordinance to limit business and industrial uses to the property facing or fronting the street zoned for business or industrial and to forbid business or industrial uses facing or fronting the street zoned for residential uses. In all cases of ambiguity due to the actual layout of the property or other circumstances, the Board of Zoning Appeals shall have the authority to determine on which street the business or industrial use shall face or front so that the spirit of the ordinance shall be observed.

3.03 COMPLIANCE WITH DISTRICT STANDARDS

No development shall occur except in accordance with the district use regulations and all other applicable regulations of this ordinance and no land, building, structure, or premises shall be used for any purpose or in any manner other than that which is permitted in the district in which it is located except as otherwise excluded in this ordinance.

3.04 ZONING CLASSIFICATIONS FOR NEWLY ANNEXED PROPERTY

After the effective date of this ordinance, property annexed into the city shall be zoned by ordinance of the City Commission acting in consideration of a recommendation of the Planning Commission. Such zoning shall take place concurrently with the ordinance annexing said property or expeditiously as possible following the finalization of an annexation. When determining the zoning of new property, the Planning Commission will base its recommendation on available information including current land use, public input, transportation, and the city’s land use plan.

3.05 ESTABLISHMENT OF BASE DISTRICTS (Amended 06.10.2021)

For the purpose of this ordinance, Whitwell, Tennessee is hereby divided into eight (8) districts and one overlay designated as follows:

- R-1 Low Density Residential District
- R-2 High Density Residential District
- C-1 City Center
- C-2 Highway Commercial District
- MX-1 Neighborhood Commercial Mixed Use
- MS -1 Medical Services District
- I-1 General Industrial District
- AG Agriculture District

3.06 PERMITTED USES (Amended 08.12.2021)

The table below lists uses and if they are permitted in each of the zoning districts subject to the provisions of this ordinance. The designations are as follows: P=Permitted, PR=Permitted on Review, and A=Use Permitted on Appeal. If no indication is made for a use in a particular zoning district, then the use is not allowed in that district.

Base Zoning District	C-1	C-2	AG	MX-1	MS-1	I-1	R1	R2
Agricultural								
Farming and agricultural uses			P			P		
Aquaculture			P			P		
Riding/boarding stables, and kennels		PR	P		PR	P		

Base Zoning District	C-1	C-2	AG	MX-1	MS-1	I-1	R1	R2
Civic and Institutional								
Active Park Facilities	P	P	P	P	P		P	P
Airports						PR		
Assisted Living Facility	P	P		P	P			
Cemeteries			A			A		
Cemeteries as accessory use to Religious organization	P	P	P	P	P	P	P	P
Charitable, Fraternal or Social Organizations, not operated for profit	P	P		P			PR	PR
Children's homes								P
Churches, parish houses, Sunday school buildings, cemeteries, and other church related activities	P	P	P	P	P	P	P	P
Clinics	PR	P	PR		P	P		
Correctional Facilities						PR		
Cultural, civic and institutional uses	P	P	P	P	P			P
Day Care Centers	P	P		PR	P			
Educational Facilities	P	P		P			PR	PR
Essential Services	P	P						
Medical Facilities		P			P			
Hospitals		P			P			
Municipal, county, state, or federal buildings and uses	P	P		P	P	P		
Nursing/Convalescent Home		P			P			
Passive Parks and Open Space	P	P	P	P	P	P	P	P
Public Buildings or Uses	P	P		P				PR
Rehabilitation Centers					P			
Place of Public Assembly	P	P		P				
Schools, public and private	P	P	P	P			PR	PR
Utility facilities necessary for the provision of public services not to include water treatment or wastewater treatment plants	P	P	P	P	P	P	P	P
Water/Wastewater Treatment Plants		P	P			P		PR

Base Zoning District	C-1	C-2	AG	MX-1	MS-1	I-1	R1	R2
Office Uses								
Offices, both private and governmental	P	P		P	P	P		PR
Contracting or engineering offices and establishments	P	P		P		P		PR
Commercial Uses								
Adult-Oriented Establishments						A		
Amusements, and recreation, including theaters		P						
Auction Houses		P						
Automotive Body Shops	PR	P				P		
Automotive Fuel Sales		P				P		
Automotive Wash Facilities		P						
Bakeries	P	P						
Bed and Breakfast Establishments	P	P						PR
Beer serving/sales establishments	P	P		P				
Child Care Centers	P	P		P				PR
Commercial Kennels		P	P					
Convenience Stores	P	P						PR
Customary Home Occupations	P	P		P			PR	PR
Drive-in establishments for the retail sale of merchandise	P	P						
Drug stores, medical supply establishments and like uses	P	P			P			
Extended Stay or All-Suite Hotels		P						
Financial institutions	P	P		P				
Furniture and appliance sales, service, and repair	P	P						
Graphics, printing, and newspaper publishing facilities	P	P				P		
Full Service Hotels or Motels	P	P		P				
Funeral Homes/Crematoriums	P	P		P				
Package Liquor Stores (Added 08.12.2021)		PR						
Parking lots and garages with first floor retail encouraged	P	P						
Personal, business, and professional services	P	P		P				

Pharmacies	P	P		P				
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Base Zoning District	C-1	C-2	AG	MX-1	MS-1	I-1	R1	R2
Production and assembly of hand crafted items and custom designed products	PR	P		P				
Public utility stations	P	P	P	P	P	P	PR	PR
Radio and television stations	P	P		P				
Residential dwellings on the upper floors of buildings	P	P		P				
Restaurants	P	P		P				
Restaurants, Drive-in/Drive-Through		P						
Recreational Facilities								
Retail and Commercial Uses		P						
Service Commercial Uses		P						
Shopping Centers		P						
Signs and billboards		P						
Stores and shops conducting retail trade		P						
Tattoo parlors and body piercing parlors		P						
Taxi facilities, train stations, and bus stations	P	P						
Telecommunication Towers and Antennas			PR		PR	PR		
Theaters	P	P		P				
Tire sales and recapping or retreading establishments		P						
Tourist services including information centers, gift and supply shops	P	P		P				
Vehicle Sales and Rental		P						
Veterinary Facilities	P	P		P	P			
Wholesale Sales		P				P		
Zoos						PR		
Industrial								
Bottling plants and milk distribution stations or packaging works						P		
Engine and Motor Repair Facilities		PR				P		
Foundries						P		

Freighting or trucking yards or terminals						P		
Base Zoning District	C-1	C-2	AG	MX-1	MS-1	I-1	R1	R2
Gasoline, oil, and liquefied gasses storage in conformance with National Fire Protection Association						PR		
Heavy Industrial Uses						PR		
Industrial Services						P		
Light Industrial Uses						P		
Junk, Wrecking, and Salvage Yards						A		
Manufacturing and procession of an artistic and crafts nature	PR			P		P		
Recycling Centers		PR				P		
Retail or service use only where it directly serves or directly serves or is auxiliary to the needs of industrial plants or employees thereof						P		
Sand or gravel extraction or storage operations						P		
Self-Storage Facilities						P		
Warehousing, not including self-service storage facilities	PR	PR				P		
Wrecker Service		P				P		
Residential								
Single-Family Dwelling (excluding single-wide trailers, RVs, travel trailers)			P	PR			P	P
Residential above commercial	P	P		P			PR	PR
Duplexes				P				P
RV Parks		PR	PR					
Mobile Home Parks			PR					PR
Apartments	P			PR				P
Groups Homes							P	P
Halfway Houses							PR	P
Single-wide trailers			P					P

3.07 PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS

For regulations governing development within special flood hazard areas, refer to the Whitwell Floodplain Management Ordinance.

The Flood Hazard Overlay imposes specific regulations on uses within Special Flood Hazard Areas based on the FEMA flood maps for the City of Whitwell as referenced in the Whitwell Floodplain Management Ordinance.

ARTICLE 4

GENERAL PROVISIONS APPLYING TO ALL DISTRICTS

For the purpose of this ordinance there shall be certain general provisions which shall apply to the city as a whole as follows:

4.01 ZONING AFFECTS EVERY BUILDING AND USE

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation.

4.02 ONE PRINCIPAL STRUCTURE FOR EACH LOT

Only one (1) principal building and its customary accessory buildings may be erected on any lot except as otherwise provided for in this resolution (planned shopping centers, planned unit developments, etc.)

No building shall be erected on a lot which does not abut at least one street, for a distance of thirty-five (35) feet, unless an easement at least forty (40) feet in width to a street is provided and such easement is accepted as a public thoroughfare. Such a building shall conform to the lot and yard requirements of the district in which it is located.

4.03 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 this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

4.04 REQUIRED YARD CANNOT BE USED BY ANOTHER BUILDING

No part of a yard or other open space required about any building for the purpose of complying with the provisions of these regulations shall be included as a part of a yard or other open space required under these regulations for another building.

4.05 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 from the street line, centerline of the street, or property line as required for adjacent properties which front on that street.

4.06 OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED.

On a corner lot in any district, within the area formed by the centerlines of the intersecting or intercepting streets and a line joining points on such centerlines at a distance of ninety (90) feet from their intersection, there shall be no obstruction to vision between a height of two and one-half (2-1/2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

4.07 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:

4.07.1. A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty (30) feet in width.

4.07.2. There shall be no more than two (2) points of access to any one (1) public street on a lot of less than five hundred (500) feet but more than one hundred (100) feet in width. Lots less than one hundred (100) feet in width shall have no more than one (1) access to a public street.

4.07.3. No point of access shall be allowed within twenty (20) feet of the right-of-way of any public street intersection.

4.07.4. Where sidewalks exist, the area existing between the street and an interior parking space or driveway parallel to the street shall have a curb at least six (6) inches in height and six (6) inches in width separating the parking area from the sidewalk to prevent encroachment of vehicles onto the sidewalk area.

4.07.5. No curbs on city streets or rights-of-way shall be cut or altered without written approval of the Building Inspector.

4.07.6. Cases requiring variances relative to this action and hardships not caused by the property owner, shall be heard and acted upon by the Board of Zoning Appeals.

4.07.7. Access control on property abutting state or federal highways shall be governed by official regulations of the Tennessee Department of Transportation or the provisions of this ordinance whichever is higher.

4.08 ROAD FRONTAGE REQUIREMENTS

All residential uses must front on a public street for a distance of at least thirty-five (35) feet. In all districts, the front of the building must be parallel to the abutting street. On corner lots, the front of the building must be parallel to one of the abutting streets.

4.09 CONFORMANCE WITH THIS ORDINANCE

No building or structure, whether conforming or non-conforming, shall be changed, expanded, or any way altered except in conformance with all provisions of this ordinance. (An example of a violation of this provision would be the division of a single dwelling unit into two (2) or more units except in conformance with this ordinance.)

4.10 CORNER LOTS

The side setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces, provided however, the side setback for a corner lot in a Residential district shall be twenty (20) feet when said side yard adjoins a local street.

4.11 ACCESSORY USE REGULATIONS.

The uses of land, buildings and other structures permitted in each of the districts established by this ordinance are designated 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:

1. Be customarily incidental to the principal use established on the same lot.
2. Be subordinate to and serve such principal use.
3. Be subordinate in area, intent, and purpose to such principal use.
4. Contribute to the comfort, convenience, or necessity of uses of such principal use.
5. In a residential district no accessory use is permitted in the front yard, and any accessory use shall be not less than ten (10) feet from any property line.

ARTICLE 5

ZONING DISTRICT STANDARDS

5.01 R-1 LOW DENSITY RESIDENTIAL DISTRICT.

5.01.1 District Description. This residential district is intended to be used for single-family residential areas with relatively low population densities. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area including small scale neighborhood commercial establishments. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

5.01.2. Dimensional Regulations. All uses permitted in the R-1 Low Density Residential District shall comply with the following requirements:

a. Front Setback. The front setback shall be based upon the road the structure will front. Each road type is classified and located on the Whitwell Major Road Plan:

Arterial – 50 feet

Collector – 35 feet

All other – 30 feet

b. Rear Setback. The rear setback shall be twenty (20) feet for the principal structure and ten (10) feet for any permitted accessory structures.

c. Side Setback. The side setbacks shall be fifteen (15) feet for one story structures and twenty (20) feet for two story structures.

d. Minimum Land Area. No lot or parcel of land shall be reduced in size to provide separate lots or buildings sites of less than the minimum required lot size as listed in the table below. However, where there is an existing lot of record of less than ten thousand eight hundred and ninety (10,890) square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of one (1) single-family dwelling, provided the lot in question has a public water and sanitary sewer supply, providing that said lot of record is not less than seven thousand five hundred (7,500) square feet in area.

Public Water and Sanitary Sewer	Public Water and Septic Tank*	Private Well and Septic Tank*
10,890 square feet	13,000 square feet	25,000 square feet

*Approval of septic systems and private wells are given by the representative of the Tennessee Department of Environment and Conservation (TDEC). The minimum lot size may be increased based on the requirements of TDEC but in no instance will the minimum lot size be decreased from the requirements of this section.

e. Maximum Lot Coverage. On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed forty-five (45) percent of the total area of such lot or parcel.

f. Lot Width. No lot shall be less than one hundred (100) feet wide at the building setback line. However, where there is an existing lot of record of less than one hundred (100) feet wide at the time of adoption of this ordinance, this lot may be utilized for the construction of one (1) single-family dwelling, providing that said lot of record is not less than seventy (70) feet wide at the building setback line.

g. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.01.3. Parking Space Requirements. As regulated in Article 8.

5.01.4. Access Control. As regulated in Article 4, Section 4.07.

5.02 R-2 HIGH DENSITY RESIDENTIAL DISTRICT

5.02.1. District Description. This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas which by location and character are appropriate for occupancy by high density, single-family and multi-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants of apartment buildings and adequate space for all related facilities.

5.02.2. Dimensional Regulations. All uses permitted in the R-2 High Density Residential District shall comply with the following requirements except as provided in Article 8.

a. Front setback. The front setback shall be twenty-five (25) feet.

b. Rear Setback. The rear setback shall be fifteen (15) feet.

c. Side Setback. The side setbacks shall be ten (10) feet for one story structures and an additional five (5) feet for each additional story.

d. Land Area. No lot or parcel of land shall be reduced in size except as provided in the following chart.

On lots or parcels of land where single- or multi-family dwellings are constructed, the following area requirements (measured in square feet) shall apply.

	1 unit	2 units	3 units	3+
Public Water/Sewer	7,500	10,000	15,000	20,000*
Public Water/Septic	13,000^	20,000^	40,000^	55,000*^
Well/Septic	25,000^	43,560^	Not allowed	Not allowed

*Plus an additional 2,500 for each additional unit

^ Approval of septic systems and private wells are given by the representative of the Tennessee Department of Environment and Conservation (TDEC). The minimum lot size may be increased based on the requirements of TDEC but in no instance will the minimum lot size be decreased from the requirements of this section.

e. Maximum Lot Coverage. On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed forty-five (45) percent of the total area of such lot or parcel.

f. Lot Width. No lot shall be less than seventy-five (75) feet wide at the building setback line.

g. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.02.3. Parking Space Requirements. As regulated in Article 8.

5.02.4. Access Control. As regulated in Article 4, Section 4.07.

5.03 C-1 CENTRAL BUSINESS DISTRICT

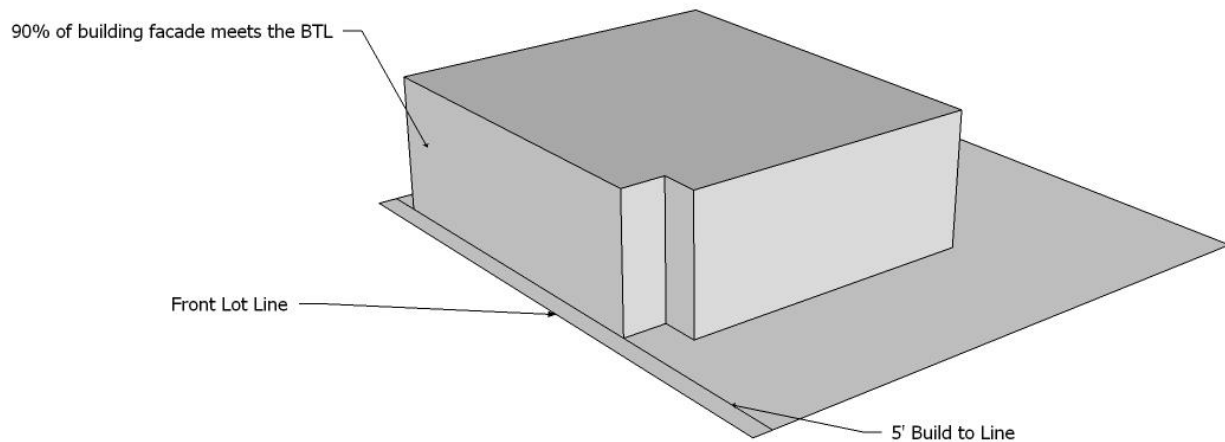
5.03.1. District Description. The C-1 district is established to provide an area for the conduct of community and regional retail and service business of an indoor and intensive nature. The district is designed especially for those sales and service uses which require a central location, generate substantial pedestrian traffic, and are mutually benefitted by close proximity to other uses of similar nature and requirements. Only those small-scale industrial uses commonly associated with retail, or business, or personal service activities are allowed. It is intended that such areas have properties of size suitable for uses of a variety of scale developed so as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial and industrial activities which are characterized by trucking other than stocking and delivery of retail goods, those which cater exclusively to automobiles or traffic or to patrons who remain in their vehicles for service.

Residences, particularly those above commercial space, are encouraged in the district to provide a stable base for commercial and retail entities.

5.03.2. Dimensional Regulations. The following requirements shall apply to all uses permitted in this district. In addition to these requirements, a site plan is also required as provided in Article 7.

- a. Front Setback. No required front setback.
- b. Rear Setback. The rear setback shall be ten (10) feet.
- c. Side Setback. No required side setback.
- d. Height Requirement: No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.03.3. Building Placement. All buildings, excluding cultural, civic and institutional uses, shall have a Required Build to Line (BTL) no less than five (5) feet from the front lot line for at least ninety (90) percent of the front façade, unless an outdoor eating area is provided which extends from the front building line to within five (5) feet of the front lot line. Corner lots shall be considered to have front lot lines for all sides of the lot adjoining a public right-of-way, excluding alleys.



5.03.4. Off-Street Loading and Unloading. As regulated in Article 8, Section 8.05.

5.03.5. Parking Requirements. As regulated in Article 8.

5.03.6. Access Control. As regulated in Article 4, Section 4.07.

5.04 C-2 HIGHWAY BUSINESS DISTRICT

5.04.1. District Description. The C-2 General Commercial District is established to provide areas in which the principal use of land is devoted to general and highway commercial activities; regulations are designed to preserve the traffic-carrying capacity of the streets and roads and to provide for necessary off-street parking and loading.

5.04.2. Dimensional Regulations. The following requirements shall apply to all uses permitted in this district. In addition to these requirements, a site plan is also required as provided in Article 7.

- a. Front Setback. The front setback shall be thirty (30) feet.
- b. Rear Setback. Each lot shall have a rear setback of ten (10) feet; where a commercial building is serviced from the rear, there shall be provided a rear setback of thirty (30) feet; the rear setback which abuts a residential district shall not be less than twenty-five (25) feet.
- c. Side Setback. On the side of a lot adjoining a residential district, there shall be a side setback of twenty-five (25) feet. There shall be a side setback from an intersection of twenty-five (25) feet. In all other cases, a 10 foot side setback is required.
- d. Height Requirements. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.04.3. Parking Space Requirements. As regulated in Article 8.

5.04.4. Off-Street Loading and Unloading. As regulated in Article 8, Section 4.05.

5.04.5. Access Control. As regulated in Article 4, Section 4.07.

5.04.6. Buffering requirements. New development adjacent to an R-1, R-2, and AG district shall provide a vegetative barrier of not less than 6 feet in height along the property line(s) of the development. Such a barrier shall not be required for the front yard of the property. Provided, however, that interruptions in the barrier of no more than 10 feet every 30 feet may be provided to allow for pedestrian connectivity from commercial establishments to residential areas.

5.05 I-1 GENERAL INDUSTRIAL DISTRICT.

5.05.1. District Description. The I-1 General Industrial District is intended to provide areas in which the principal use of land is for manufacturing, processing, assembling, fabrication of materials, and warehousing or storage. These land uses generally do not depend on frequent personal visits by clients or customers, but generally require good accessibility to major rail, water, or highway transportation routes. Such activities may have certain adverse effects upon

surrounding properties and may, in some instances, not be compatible with various other zoning districts or other types of land use activities in Whitwell.

5.05.2. Dimensional Regulations. All uses permitted in the I-1 General Industrial District shall comply with the following requirements except as provided in Article 8.

- a. Front Setback. The minimum front setback shall be thirty (30) feet.
- b. Rear Setback. The rear setback shall be thirty (30) feet. No yard shall be required for that portion of a lot which fronts on a railroad or rail spur.
- c. Side Setback. The minimum side setback shall be twenty (20) feet, except that side yards for industrial lots adjacent to residential districts shall have a setback of fifty (50) feet. No yard or setback shall be required for that portion of a lot which fronts on a railroad or rail spur line.
- d. Land Area. No minimum land area requirement shall be imposed in the I-1 General Industrial District; however, a site plan is required as provided in Article 4, Section 4.23.
- e. Maximum Lot Coverage. No maximum lot coverage shall be imposed in the I-1 General Industrial District.
- f. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.05.3. Parking Space Requirements. As regulated in Article 8.

5.05.4. Access Control. As regulated in Article 4, Section 4.07.

5.05.5. Buffering requirements. New development shall provide a minimum six (6) foot vegetative barrier on lot lines adjacent to property zoned R-1, R-2, AG, and C-1. Such a barrier shall not be required for the front yard of the property. Provided, however, that interruptions in the barrier of no more than 10 feet every 30 feet may be provided to allow for pedestrian connectivity from commercial establishments to residential areas.

5.05.6. Landscape Treatment. Each site shall be developed with ten (10%) percent of its area landscaped. Along the street property line a strip of landscaped ground of a minimum width of ten (10) feet exclusive of drives and walks shall be provided and maintained.

Landscape treatment shall not interfere with sight line requirements, nor obstruct needed views of buildings or their means of identification. All landscape should be designed for minimum maintenance; in an area difficult to maintain, paving or terracing may be used as a part of the landscape treatment.

5.06 MX-1 MIXED USE DISTRICT

5.06.1. District Description. The MX-1 Mixed Use District is intended to provide areas which encompass a mix of land uses that include a variety of residential uses, small scale commercial activities, and civic and cultural uses. The MX-1 district recognizes that a variety of land uses can be combined to create an atmosphere that promotes pedestrian convenience and accessibility. The goal of the district is to promote the mixing of uses horizontally and vertically which are compatible with one another and have a minimal negative impact on adjacent properties. The overall goals of the MX-1 District are to:

- (1) Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;
- (2) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
- (3) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

5.06.2. Dimensional Regulations. The following requirements shall apply to all uses permitted in this district. In addition to these requirements, a site plan is also required for commercial uses as provided in Article 7.

- a. Front Setback. The front setback shall be twenty-five (25) feet.
- b. Rear Setback. The rear setback shall be twenty (20) feet.
- c. Side Setback. The side setback shall be twenty (10) feet.
- d. Land Area. No lot or parcel of land shall be reduced in size except as provided in the following chart.

On lots or parcels of land where single- or multi-family dwellings are constructed, the following area requirements (measured in square feet) shall apply.

	1 unit	2 units	3 units	3+
Public Water/Sewer	7,500	10,000	15,000	20,000*
Public Water/Septic	13,000^	20,000^	40,000^	55,000*^
Well/Septic	25,000^	43,560^	Not allowed	Not allowed

*Plus an additional 2,500 for each additional unit

^ Approval of septic systems and private wells are given by the representative of the Tennessee Department of Environment and Conservation (TDEC). The minimum lot size may be increased based on the requirements of TDEC but in no instance will the minimum lot size be decreased from the requirements of this section.

e. Maximum Lot Coverage. No maximum lot coverage shall be imposed in the MX-1 district

f. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.06.3. Required Build to Line. All new buildings within the MX-1 district shall be constructed within twenty –five (25) feet of the front property line.

5.06.4. Parking Space Requirements. As regulated in Article 8.

5.06.5. Access Control. As regulated in Article 4, Section 4.07.

5.07 AG AGRICULTURAL DISTRICT

5.07.1. District Description. The AG Agricultural district is intended to provide sufficient land for agricultural uses and their supporting functions. It is the intent of this district to provide space for forestry, agriculture and agriculturally-oriented uses and structures which provide an important part of the economy and at the same time provide space for residential development for an ever expanding population. It is the intent here to protect the physical and economic well-being of agriculture operations and to prevent the encroachment of urban and other incompatible land uses on farm lands. This district is intended to provide locations for urbanization which are compatible with agriculture uses.

5.07.2. Dimensional Regulations. The following requirements shall apply to all uses permitted in this district.

a. Front Setback. The front setback shall be twenty-five (25) feet.

b. Rear Setback. The rear setback shall be twenty (20) feet.

c. Side Setback. The side setback shall be twenty (20) feet.

d. Land Area. No lot or parcel of land shall be reduced in size to provide separate lots or buildings sites of less than the minimum required lot size as listed in the table below. However, where there is an existing lot of record of less than nine thousand (9,000) square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of one (1) single-family dwelling, provided the lot in question has a public water and sanitary sewer supply, providing that said lot of record is not less than seven thousand five hundred (7,500) square feet in area.

Public Water and Sanitary Sewer	Public Water and Septic Tank*	Private Well and Septic Tank*
9,000 square feet	13,000 square feet	25,000 square feet

*Approval of septic systems and private wells are given by the representative of the Tennessee Department of Environment and Conservation (TDEC). The minimum lot size may be increased based on the requirements of TDEC but in no instance will the minimum lot size be decreased from the requirements of this section.

e. Maximum Lot Coverage. No maximum lot coverage shall be imposed in the AG district.

f. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.07.4. Parking Space Requirements. As regulated in Article 8.

5.07.5. Access Control. As regulated in Article 4, Section 4.07.

5.08 MS-1 MEDICAL SERVICES DISTRICT

5.08.1. District Description. The MS-1 district is intended to provide ample land for a variety of medical services for the city. These services include professional medical offices, hospitals, senior living facilities, and clinics. These land uses often require large amounts of parking, access to transportation facilities, and may have irregular operating hours. While these uses are a necessary component for the livability of the citizens of Whitwell, the district serves to mitigate the negative impacts these uses may have.

5.08.2. Dimensional Regulations. All uses permitted in the MS-1 Medical Services District shall comply with the following requirements except as provided in Article 8.

- a. Front Setback. The front setback shall be thirty (30) feet.
- b. Rear Setback. The rear setback shall be twenty (20) feet.
- c. Side Setback. The side setback shall be fifteen (15) feet.
- d. Land Area.

Public Water and Sanitary Sewer	Public Water and Septic Tank*	Private Well and Septic Tank*
7,500 square feet	13,000 square feet	25,000 square feet

*Approval of septic systems and private wells are given by the representative of the Tennessee Department of Environment and Conservation (TDEC). The minimum lot size may be increased based on the requirements of TDEC but in no instance will the minimum lot size be decreased from the requirements of this section.

e. Maximum Lot Coverage. No maximum lot coverage shall be imposed in the MS-1 District

f. Height Requirement. No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 10, Section 10.03

5.08.4. Parking Space Requirements. As regulated in Article 8.

5.08.5. Access Control. As regulated in Article 4, Section 4.07.

5.09 FO – FLOOD HAZARD OVERLAY

5.09.1. District Description. Land included in the Flood Hazard Overlay includes those properties which have been identified as Special Flood Hazard Areas (SFHA) on maps developed by the Federal Emergency Management Agency (FEMA). These areas are prone to flooding and the danger of property damage and loss of life that results from flooding. Special uses and regulations are therefore utilized in order to minimize the impacts of flooding on these areas.

a. Developments within the floodplain area are governed by the requirements of the Whitwell Floodplain Management Ordinance. **(Added 06.10.2021)**

5.09.2. Dimensional Regulations. All uses permitted in the FO shall meet the dimensional regulations of their underlying zoning district.

5.09.3. Parking Space Requirements. As regulated in Article 8.

5.09.4. Access Control. As regulated in Article 4, Section 4.07.

ARTICLE 6

SUPPLEMENTAL USE REGULATIONS

6.01 CUSTOMARY HOME OCCUPATIONS

A customary home occupation is a gainful occupation or profession conducted by members of a family residing in the premises and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the building, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the above restrictions and is compatible with the district in which said home occupation is located. However, activities such as dancing instruction, group band instrument instruction, tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

6.02 SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES

The purpose of these sign regulations are to encourage the effective use of signs as a means of communication in the city, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property and to enable the fair and consistent enforcement of these sign restrictions.

6.02.1. General Sign Regulations Applicable to All Zoning Districts.

1. No sign shall be erected where by reason of its position, wording, illumination, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device, nor in any way obstruct pedestrian traffic;
2. The building setback for ground signs shall be one-half the customary building setbacks for the various zoning districts. In the C-1 no ground signs will be permitted on sidewalks or within street rights-of-way;
3. Temporary signs shall not be erected or otherwise fixed to any pole, tree, stone, fence, or any other object within the right-of-way of any street;
4. No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress;
5. All signs which extend over a sidewalk shall be at least nine (9) feet above the sidewalk;

6. Blue, red and amber beacon or blue, red and amber flashing lights are prohibited on any sign in the City of Whitwell;
7. The Whitwell Building Inspector may issue a permit for a non-illuminated temporary sign which he considers compatible with a temporary use permit. In no case shall the sign be more than thirty-two (32) square feet in size and must be removed at the termination of the temporary use permit.
8. No sign in the City of Whitwell, Tennessee shall exceed two hundred eighty-eight (288) square feet.
9. Within the city limits of Whitwell, no off-premise sign shall be permitted within six hundred sixty (660) feet of the intersection of any State Highway and any public street right-of-way.
10. Temporary off-premise signs, which display special events or activities, may be permitted subject to review and approval by the Whitwell Board of Zoning Appeals. The Board of Zoning Appeals shall determine the type and location for any temporary off-premise sign that it deems permissible. Any temporary off-premise sign permit shall expire after forty-five (45) days. The building inspector may issue an extension for an additional forty-five (45) days for a temporary off-premise sign, but only for those temporary off-premise signs which have obtained prior approval from the Board of Zoning Appeals.
11. Off-premise signs that are located in public recreational areas, such as signs located on outfield walls or dugouts on ball fields or scoreboard advertising displays are exempt from the requirements of this section.
12. No building permit shall be issued for construction on property where a non-conforming sign is located. Any builder, owner or agent shall have the option of removing all non-conforming signs or altering all non-conforming signs so that they are in compliance with this ordinance, before the building inspector may be authorized to issue a building permit for construction on that site.
13. No building permit shall be issued for any additional, new or replacement sign on property where a non-conforming sign is located. Any builder, owner or agent shall have the option of removing all non-conforming signs or altering all non-conforming signs so that they are in compliance with this ordinance, before the building inspector may be authorized to issue a permit for an additional, new or replacement sign.

6.02.2 Signage Classifications and Specific Requirements.

1. Spectacular Sign: These signs have advertising copy which is animated, wired for lights or luminous tubing, or both, with copy action controlled by the flashed circuit breakers or other electronic devices.
 - A. These signs shall be illuminated with electricity only.
 - B. All spectacular signs shall be constructed of non-combustible materials.

- C. All spectacular signs shall comply with the applicable provisions of the latest version of the National Electric Code.
2. Ground Signs: These signs are supported by uprights or braces in or upon the ground; or when such sign is mounted upon a vehicle, trailer, or mobile structure principally used for the purpose of advertising.
 - A. A ground sign supported by wood material shall not be at any point over twenty-four (24) feet above the ground level.
 - B. Lighting reflectors may project beyond the face of the sign.
 - C. The bottom coping shall be no less than three (3) feet above the ground which space may be filled with decorative trim or light wooden construction.
 - D. Wherever anchors or supports of wood are embedded in the soil, the wood shall be pressure-treated with an approved preservative.
 - E. The application for a permit to construct a ground sign must be accompanied by a certification from an architect or engineer stating that the sign is designed and shall be constructed in such a manner as to comply with Section 1205 - Wind Loads, of the *Standard Building Code*, Southern Building Code Congress International, Inc.
 - F. All ground signs shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising Authorization.
 3. Roof Signs: Any sign erected, constructed, or maintained above the roof of any building.
 - A. All roof signs shall be so constructed as to leave a clear space of not less than six (6) feet between the roof level and the lowest part of the sign and shall have at least five (5) feet clearance between the vertical supports thereof; a portion of a roof sign structure shall not project beyond an exterior wall.
 - B. Every roof sign shall be constructed entirely of steel construction, including the upright supports and braces, except that only the ornamental lattice work may be of wood construction.
 - C. The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building must be designed to bear the stress of these members.
 4. Wall Sign: Any sign that is affixed to the wall of any structure, when such sign shall project not more than twelve (12) inches from the building.
 - A. Wall Signs attached to exterior walls of solid masonry, concrete or stone, shall be safely and securely attached to the same by means of metal anchors, bolts or expansion screws of not less than three-eighths (3/8) inch in diameter and shall be embedded at least five (5) inches.

Wood blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorage secured to un-braced parapet wall.

- B. Temporary cloth signs with wood frames may be kept in place for a period not exceeding thirty (30) days.
5. Projection Sign: Any sign which is affixed to any building wall or structure and extends beyond the building wall, structure, more than twelve (12) inches.
- A. All projecting signs shall be constructed entirely of metal or other non-combustible material and securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains.
 - B. The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guy-wires, or steel rods having net cross sectional dimension of not less than three-eighths (3/8) inch in diameter. Such supports shall be erected or maintained at an angle of at least forty-five (45) degrees with the horizontal to resist the dead load and at an angle of forty-five (45) degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds thirty (30) square feet in one facial area, there shall be provided at least two (2) such supports on each side not more than eight (8) feet apart to resist the wind pressure.
 - C. All supports shall be secured to a bolt or expansion screw that will develop the strength of the supporting chain, guy-wires or steel rod, with a minimum of five-eighths (5/8) inch bolt or lag screw, by an expansion shield. Turn buckles shall be placed in all chains, guy-wires or steel rods supporting projecting signs.
 - D. Chains, cables, guy-wires or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in iron supports, but such supports shall not be attached to an un-braced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated or fastened on the inside in a secure manner.
 - E. A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall; except that a sign erected at a right angle to the building, the horizontal width of which sign perpendicular to such wall does not exceed eighteen (18) inches may be erected to a height not exceeding two (2) feet above the roof or cornice wall or above the roof level where there is no cornice wall. A sign attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall.
6. Marquee Sign: A projecting sign which is attached to or hung from a marquee.
- A. All marquee signs shall be constructed entirely of metal or non-combustible material and may be attached to, or hung from a marquee, and such signs when hung from a

marquee shall be at least nine (9) feet at its lowest level above the sidewalk or ground level.

- B. Marquee signs shall not extend outside the line of a marquee.
 - C. Marquee signs may be attached to the sides and front of a marquee, and such sign may extend the entire length and width of said marquee, provided such sign does not extend more than six (6) feet above, nor one (1) foot below such marquee.
 - D. Under no circumstances shall a marquee sign have a vertical dimension greater than eight (8) feet.
8. Shingle Sign: A projection or wall sign not over six (6) square feet in area, constructed of metal or other non-combustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.
- A. The specific regulations for the projection and wall sign should also apply to the shingle sign.
9. Portable Sign: Any on premise sign which is not affixed to real property in such a manner that its removal would cause serious material damage to the property and which is intended to be or can be removed at the pleasure of the owner, including, but not limited to, single or multi-faced sandwich boards and wheel mounted mobile signs.
- A. These signs shall be illuminated with electricity only.
 - B. All portable signs shall be constructed of non-combustible materials.
 - C. All portable signs shall comply with the applicable provisions of the National Electric Code.
 - D. All portable signs shall be sufficiently anchored to prevent movement from wind force or flotation.
10. Billboard: An off-premise sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. For the purposes of this ordinance, off-premises signs do not include temporary campaign signs for elections to public office.
- A. All Billboards shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.
 - B. All Billboards shall be in compliance with the provisions of the Southern Building Code regarding structural elements such as stress factors and wind loads, etc.

6.02.3 Specific Outdoor Advertising Display Regulations for Each Zoning District.

- 1. Signage Regulations for the R-1 Zone.
 - A. The following type ground signs are permitted in the R-1 Zone:

- (1) Non-illuminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.
 - (2) Non-illuminated signs not more than thirty-two (32) square feet in area giving the names of the contractors, engineers, or architect, during construction of a building.
 - (3) Ground Signs on churches, schools or park grounds which serve the purpose of identifying the particular facility.
 - (4) All other ground signs are specifically prohibited in the R-1 zone.
- B. The following types of wall signs are permitted in the R-1 zone:
- (1) Nameplates, indicating name, and house number.
 - (2) Church or school bulletin boards provided they do not exceed thirty-two (32) square feet in area.
 - (3) All other wall signs prohibited in the R-1 zone.
- C. All other types of signs are specifically prohibited in the R-1 zone.
2. Signage Regulations for the R-2 Zone.
- A. All signs which are permitted in the R-1 zone are permitted in the R-2 zone.
 - B. In addition to the signs permitted in the R-1 zone, ground signs identifying three- and four-unit apartments, churches and schools are permitted provided that the sign is not larger than thirty-two (32) square feet in area.
 - C. All other types of signs are specifically prohibited in the R-2 zone.
3. Signage Regulations for the C-1 Zone.
- A. Spectacular Signs: are permitted in the C-1 zone.
 - B. Ground Signs: are permitted in the C-1 zone provided they do not exceed sixty-four (64) square feet in area.
 - C. Roof Signs: are permitted in the C-1 zone.
 - D. Wall Signs: are permitted in the C-1 zone provided that the sign is no larger than one (1) square foot for each one linear foot of building frontage occupied by the establishment.
 - E. Projection Signs: are permitted in the C-1 zone provided that they do not extend over the sidewalk more than two-thirds (2/3) the width of the sidewalk and no less than nine (9) feet above the sidewalk.
 - F. Marquee Signs: are permitted in the C-1 zone.
 - G. Shingle Signs: are permitted in the C-1 zone and the square footage requirement of the wall sign applies also to the shingle sign.

4. Signage Regulations for the C-2 Zone.
 - A. All the signs permitted in the C-1 zone are permitted in the C-2 zone.
 - B. Billboards may be permitted, subject to the review and approval of the Board of Zoning Appeals.
 - C. Ground signs: may contain up to sixty-four (64) square feet.
 - D. Wall Signs: may contain two square feet for each one linear foot of building frontage occupied by the establishment.
5. Signage Regulations for the I-1 Zone.
 - A. All signs permitted in the C-2 zone are permitted in the I-1 zone.
6. Signage Regulations for the MX-1 Zone.
 - A. All signs permitted in the R-2 zone are permitted in the MX-1 Zone.
 - B. For commercial establishments located in the MX-1 zone, ground signs, wall signs, and projection signs, and shingle signs are allowed.
 - C. All other signs are prohibited.
7. Signage Regulations for the AG Zone
 - A. All signs allowed in the R-2 district are allowed in the AG district.
 - B. Wall and ground signs may be allowed for agricultural establishments.
 - C. All other signs are prohibited.
8. Signage Regulations for the MS-1 Zone.
 - A. All signs permitted in the C2 zone are permitted in the MS-1 zone.
 - B. All other signs are prohibited.
9. Signage Regulations for the Flood Zones.
 - A. No outdoor advertising sign shall be permitted in the Floodway Zone as defined by the Whitwell Municipal Floodplain Ordinance.. Outdoor signs shall be permitted in the Floodway Fringe Zone upon review and approval of the Whitwell Board of Zoning Appeals.

6.02.4 Building Permit Required. With the exception of "For Sale or "For Rent" signs and nameplates indicating name and house number, all new signs whether permanent or temporary must have a sign permit which shall be issued by the Whitwell Building Inspector. The sign permit number shall be noted in a permanent manner on each new sign.

6.02.5 Non-Conforming Signs. Outdoor advertising displays which are non-conforming at the time of the passage of this ordinance shall be permitted to remain as long as they are properly

maintained and are not considered to be a safety hazard. If a non-conforming advertising display ceases to display advertising matter for a period of one year or is damaged beyond fifty (50) percent of its replacement value, such sign shall be considered illegal and subject to removal as outlined in subsection 6.02.7.

6.02.6 Outdoor Advertising Displays Must be Maintained. All outdoor advertising displays must be maintained in such a manner so as to not to endanger the public's safety. Upon finding that a sign is a safety hazard, the Whitwell Building Inspector shall give the owner of the property on which the sign is located a written notice which shall outline the corrective measures that must be completed in a maximum of thirty (30) days. If at the end of thirty (30) days the sign has not been brought into compliance, it shall be subject to removal as outlined in subsection 6.02.7

6.02.7. Procedure for Removal of Illegal or Unsafe Outdoor Advertising Displays. A sign which is not in compliance with this ordinance shall be subject to removal. The procedures which the Whitwell Building Inspector shall follow to have the illegal sign removed include:

1. The owner of the property on which the sign in question is located shall be given a written notice which shall include:
 - A. A statement as to why the sign is illegal;
 - B. A statement that the sign must be brought into compliance with this ordinance in thirty (30) days or the city will begin necessary court action to have the sign brought in compliance; and
 - C. A statement informing the property owner that he has the right to appeal the Building Inspector's decision to the Whitwell Board of Zoning Appeals.
2. If, at the end of the thirty (30) day period, the sign has not been brought into compliance with this ordinance, removed, or an appeal made to the BZA, the Whitwell Building Inspector shall turn this matter over to the city attorney who shall initiate the necessary legal steps. The building inspector shall also notify the property owner in writing that legal proceedings have been initiated to bring the sign in question into compliance with this ordinance.

6.03 PLANNED SHOPPING CENTERS

A planned shopping center consisting of one (1) or more buildings to be constructed on a plot of land not subdivided into customary streets and lots may be constructed as provided:

1. It is located at the intersection of a major thoroughfare.
2. Off-street automobile parking spaces for the proposed uses are provided on the lot; and
3. Where the project abuts a residential district, there shall be a ten (10) foot planted evergreen buffer strip along the rear and side lot lines adjacent to the residential district. However, interruptions in the evergreen buffer to provide for sidewalk connectivity may be provided.

6.04 GROUP HOUSING DEVELOPMENT

A group housing development of two (2) or more buildings to be constructed on a plot of land of at least two (2) acres not subdivided into customary streets and lots, and which will not be so subdivided, may be constructed provided:

1. Off-street automobile parking space requirements for the proposed uses are provided on the lot; and
2. Where the project abuts a residential district, there shall be a ten (10) foot planted evergreen buffer strip along the rear and side lot lines adjacent to the residential district.

6.05 PLANNED UNIT DEVELOPMENTS

6.05.1 Intent and Requirements. A planned unit development consisting of one or more buildings to be constructed on a plot of land and which may be not subdivided into customary lots and streets to include a mixture of land uses may be constructed provided:

1. PUDs may only be approved in the MS-1, AG, and C-2 zoning districts.
2. Residential units shall be laid out to have a dedicated minimum area and setbacks as though they were on individual lots.
3. Fifteen (15) percent of the overall PUD area shall be set aside and developed for common open space or recreational uses not including building setbacks and stormwater detention facilities. Said open space shall be designated as common area.
4. Sidewalks shall be required for all residential uses, churches, schools, recreational facilities and grounds, libraries, museums, and historic monuments and sites, private day nurseries and kindergartens, and multi-family developments along their public street frontages.
5. Application shall be made to the Planning Commission for approval of a Planned Unit Development. The application shall be accompanied by a concept plan developed by a licensed surveyor, engineer, or landscape architect including the following information:
 - Uses including the number and type of dwelling units;
 - Buffers and/or screening
 - Proposed building location, size, and height, with setbacks
 - Parking and driveway areas
 - Entrance and exit locations
 - Internal vehicular circulation pattern
 - Private streets must be identified

- The location of the required 15% of open space

6.05.2. Approval Process

1. The Planning Commission shall review the proposed development and forward its recommendation to the Board of Commissioners, which shall review and give final approval or reject the proposed plan
2. The Planning Commission shall review the conformity of the proposed development recognizing the objectives of the Comprehensive Plan and neighborhood compatibility;
3. The Planning Commission and the Board of Commissioners may impose conditions regarding layout, circulation, and performance of the proposed development and may require that appropriate deed restrictions be filed;
4. The proposed development must be designed to produce an environment of compatible and desirable character not out of harmony with its surrounding neighborhood and must provide standards of recreation and open space, transportation, and areas for parking adequate for the occupancy proposed; and
5. A final plat of the development shall be recorded in the office of the appropriate county Register of Deeds and shall show property lines, common land, streets, easements, and other applicable features required by the Subdivision Regulations. Building permits may be issued prior to final subdivision approval. However, no certificate of occupancy will be issued prior to the recording of the final plat.

6.06 TEMPORARY USE REGULATIONS.

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the zoning officer. 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 uses and shall be subject to the specific regulations and time limits which follow and the regulations of any district in which such use is located.

1. Carnival or Circus: May obtain a Temporary Use Permit in the C-2 or AG district; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. Christmas Tree Sale: May obtain a 30-day Temporary Use Permit for the display of trees on open lots in the C-1, C-2, MX-1, I-1, R-2, and AG zoning districts.
3. Temporary Buildings: In any district, a Temporary Use Permit may be issued for a 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-month

extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project or upon expiration of the Temporary Use Permit, whichever occurs sooner.

4. 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. Such offices shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six-month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

5. Religious Tent Meetings: In the C-2 or AG district, a Temporary Use Permit shall 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.

6. Seasonal Sale of Farm Produce: In any district, except the I-1 General 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-month period. All structures must adhere to the setbacks of the zoning district in which the property is located.

7. Temporary Dwelling Units in Cases of Medical Hardship: In any residential district, a temporary use permit may be issued for a period not to exceed one-year, renewable on request, to place a mobile home (double-wides excluded) on a lot which already contains a residential structure. The purpose of such temporary placement shall be to make it possible for a resident of either structure to provide necessary medical and housekeeping assistance to a resident of the other structure as required by their physical or mental disability. And provided further that such a temporary structure does 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 a physician certifying that the specific disability requires assistance from someone in close proximity, as evidence of such disability. The applicant must also provide the commission with either a) a written statement from the Marion County Health Department approving the sewage disposal system of the proposed temporary structure or b) a statement from the City recorder that public sewer is available to the proposed temporary structure. Said temporary mobile home shall be removed within forty-five (45) days following expiration or revocation of this permit.

6.07 AUTOMOBILE SERVICE STATION RESTRICTIONS.

The following regulations shall apply to all automobile service stations:

6.07.1. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the fueling pump islands.

6.07.2. Fueling pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.

6.07.3. Sign requirements as established in Article 6, Section 6.04, shall be met.

6.07.4. Any above ground storage tank of fuel shall be enclosed with screening to consist of a solid fence of a height at least six inches higher than the height of the storage device.

6.07.5. All storage tanks, whether or above ground or below ground, must comply with applicable regulations from the Tennessee Department of Environment and Conservation and the Environmental Protection Agency.

6.08 SWIMMING POOL RESTRICTIONS.

The following regulations shall apply to all swimming pools:

6.08.1. No swimming pool or part thereof, excluding aprons and walks, shall protrude into any required front setback in the R-1, R-2, and MX-1 districts.

6.08.2. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall not be less than five (5) feet in height and maintained in good condition.

6.09 DEVELOPMENT STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS.

Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards, and may adversely affect property 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.

6.09.1. General Standards for Evaluation.

- a. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- b. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.
- c. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve

(12) feet in height. Storage between the road or street and such fence, screen, or wall expressly is prohibited. Any fence, screen, or wall for screening purposes shall be properly painted or otherwise 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 the public health or safety.

e. All such yards situated on any state route or highway shall meet all Tennessee Department of Transportation standards.

6.09.2. Off-Street Parking. As regulated in Article 8 of this ordinance.

6.09.3. Ingress and Egress. The number of vehicle access driveways permitted on any single street frontage shall be limited to:

a. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.

b. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet.

Driveways used for ingress and egress shall be limited to thirty (30) feet in width maximum, exclusive of curb returns.

6.09.4. Except for non-conforming yards, no automobile wrecking junk, or salvage yard shall be permitted within three hundred (300) feet of any public road in Whitwell, except where a more stringent state or federal law applies.

6.09.5. Application for Automobile Wrecking, Junk, or Salvage Yard Permit. No person shall own or maintain an automobile wrecking, junk, or salvage yard within Whitwell until he/she has secured a permit from the Whitwell Board of Zoning Appeals. An application for said permit shall be filed in accordance with Article 11, Section 11.04 of this ordinance and shall be accompanied by a detailed site plan, a schedule for construction, and any other information herein required. Said application shall be processed in the following manner:

a. The written application, plans, and schedules and a statement of approval of the site percolation and drainage characteristics from the Marion County Health Department shall be submitted to the Whitwell Municipal Planning Commission. The planning commission shall duly review these materials and submit its recommendations to the Whitwell Board of Zoning Appeals.

b. The Whitwell Board of Zoning Appeals shall grant final approval or disapproval of the permit after reviewing the planning commission's recommendation. If the decision of the Board of Zoning Appeals is contrary to the recommendation of the planning commission, then a favorable vote of a majority of the entire board membership shall be required before a permit may be granted or refused.

6.10 DEVELOPMENT STANDARDS FOR CEMETERIES.

6.10.1 The following standards shall be imposed upon the development and construction of cemeteries in Whitwell.

- a. 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, the site shall have direct access to a thoroughfare.
- b. Any new cemetery shall be located on a site containing not less than five (5) acres.
- c. All structures, including but not limited to mausoleums, permanent monuments, or maintenance buildings, shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line.
- d. All graves of burial lots shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line.
- e. All required yards shall be landscaped and maintained.

6.10.2. Application for Cemetery Permit. No person shall develop, construct, or maintain a cemetery in Whitwell until he/she has secured a permit from the Whitwell Board of Zoning Appeals. An application for said permit shall be filed in accordance with Article 9, Section 9.06 of this ordinance, and shall be accompanied by a detailed site plan, a schedule for construction and other information herein required. Said application shall be processed in the following manner.

- a. The written application, plans, schedules, and other written information, as herein required, shall be submitted to the Whitwell Municipal Planning Commission. The planning commission shall duly review these materials and submit its recommendation to the Whitwell Board of Zoning Appeals.
- b. The Whitwell Board of Zoning Appeals shall grant final approval or disapproval of the permit after reviewing the planning commission's recommendation. If the decision of the Board of Zoning Appeals is contrary to the recommendations of the Whitwell Municipal Planning Commission, then a favorable vote of a majority of the entire board membership shall be required before a permit may be granted or refused.

6.11 TELECOMMUNICATIONS STRUCTURES.

6.11.1. Purpose and Intent. The purpose of these regulations is to (1) protect residential areas and land uses from potential adverse impacts of telecommunications structures; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers in the city by encouraging the joint use of telecommunications structures; (4) minimize visual pollution

through careful design, siting, screening and camouflaging of towers; and (5) to minimize potential damage to adjacent properties

6.11.2. Use on Review. Construction and operation of a telecommunications structure shall be considered a “use on review” by the planning commission in the C-2, AG, MX-1, MS-1, I-1 and R-2 districts. The commission shall ensure compliance with the standards of this section prior to granting a special use permit allowing such a structure. Factors to be considered in granting the permit include, but are not limited to: (1) height of the proposed structure, (2) proximity to residential structures, (3) nature of land uses, topography, and foliage on adjacent and nearby properties (4) design of the tower and especially design characteristics reducing visual obtrusiveness, (5) proposed ingress and egress, and (6) availability of shared use, co-location or alternative technologies not requiring use of towers.

6.11.3. Shared Use. The applicant shall submit documentation that the applicant has attempted to obtain shared use of an existing or planned telecommunications structure(s) in the City or Marion County and that such shared use has been denied. Shared use is not precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed telecommunications structure(s) for shared use. The planning commission may consider expert opinion on the reasonableness of fees and modifications costs. Shared costs exceeding the cost of new tower development shall be presumed to be unreasonable. Shared use of existing telecommunications structures may be technically impractical where supported by technical documentation from a licensed professional independent of the applicant. The applicant shall provide the planning commission a list of all telecommunications structures owner’s contacted, the date of such contact, the form and content of said contact and the results of said contacts.

6.11.4. Buffering and Landscaping. Ground structures and buildings shall have special care to minimize the effects on adjacent areas. All ground structures shall be buffered with a minimum of an eight-(8) foot wide landscaped strip around the perimeter of the security fencing. The buffered strip shall consist of a combination of trees, shrubs, vines or other ground covers that blends and enhances the appearance of the ground structures within the buffered area. The buffer shall be installed for permanent year-round protection of adjacent property by visually shielding internal structures from adjoining property, to a height of eight (8) feet or the height of the proposed accessory structures, whichever, is greater. Shrubs shall also be planted and maintained around any guy anchor for visual screening purposes. The landscaping provisions of this section may be varied or reduced by the planning commission if (1) the proposed plan provides for unique and innovative landscaping treatment or physical features, that meet the intent and purpose of this section, or (2) the location is in a well-forested area or shielded by topography from adjoining properties and public streets.

6.11.5. Co-location. The co-location of towers and antennas shall be permitted only on existing and proposed telecommunications structures or on power line structures and water towers over

thirty-five (35) feet in height. Where antennas or telecommunications structures are to be co-located on an existing powerline structure or water tower, the maximum height shall not exceed the height of said structure plus twenty (20) feet.

6.11.6. Aesthetics. Towers shall have either a galvanized steel finish or, subject to any Federal Aviation Administration regulations, be painted a neutral color so as reduce obtrusiveness. The tower site, the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening and landscaping that will breakup the outline of the structure and blend the structure(s) into the setting, to make it as visually unobtrusive as possible.

6.11.7. Fee. A non-refundable fee of six hundred dollars (\$600) shall accompany any application for a new telecommunications structure.

6.11.8. Security. Towers and associated ground structures shall be enclosed by security fencing not less than eight (8) feet in height, equipped with an appropriate anti-climbing device(s); provided however, the planning commission may modify this requirement as it deems appropriate. Climb-proof shields may be substituted for a security fence around guy anchors.

6.11.9. Separation Distance. A telecommunications structure shall be separated from another communications structure by a distance of not less than 300 percent (%) of the height of the tower.

6.11.10. Setbacks. All towers and accessory structures shall be setback from the property lines a distance as required by the zoning ordinance for that district, or a distance equal to twenty (20) percent of the tower height between the base of the telecommunications structure and the property line, whichever is greater. Provided however, that no tower may be located closer than 1,500 feet from an existing residence, except when topography or other physical features as may be determined by the planning commission make this impractical, the commission may reduce this distance. When a tower is constructed adjacent to an area zoned residential, a place of public assembly, or a public road, the minimum distance between the tower and said residence or road shall be equal to one hundred (100) percent of the tower height plus ten (10) feet. Guy anchors shall meet the setback requirements of the district in which the tower is located.

6.11.11. Site Plan. The applicant shall submit with an application for a special use permit, a site plan containing the information required in Section 4.23 above AND, except for a structure co-located on an existing tower, power line or water tower, the following additional information:

- a. A drawing prepared by a surveyor or licensed professional engineer to a scale of 1-inch = 100 feet or larger.
- b. A letter from a professional engineer certifying that the height of the tower and the structure meets all the standards prescribed in latest edition of the Southern Standard Building Code, the Electronic Industries Association, and any applicable standards and

regulations of the Federal Aviation Administration and the Federal Communication Commission; and describing the tower's capacity including the number and type of antennas that can be accommodated.

- c. A letter of intent from the owner, binding successive owners, allowing for the shared use of the tower.
- d. Setbacks, distance to the nearest residence(s), and distance to the nearest telecommunications structure and the owner of said tower.
- e. Landscaping and security plan.
- f. Nature of uses on adjacent properties, topography and surrounding tree coverage and foliage.
- g. Show type and height of the proposed tower with aesthetic design factors.
- h. Any other data required by this section.

6.11.12. Exceptions. The provisions of this part shall not apply to antennas or towers under 40-feet in height, or antennas or towers for use by state and local government and cooperative utility districts located by public buildings or co-located on public buildings or water towers. Pre-existing towers shall be allowed continue their use as they presently exist; however, new construction or expansion of a pre-existing telecommunications structure shall comply with this ordinance.

6.11.13. Signs. No signs shall be allowed on a telecommunications structure.

6.11.14. Removal of Obsolete Towers.

a. Any tower that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the City of Whitwell with a copy of the notice of intent to the Federal Communications Commission (FCC) to cease operations and shall be given ninety (90) days from the date that operations cease to remove the obsolete tower and accessory structure(s). Provided that if another operator submits a request for a telecommunications structure during this time period, a reasonable period of time may be granted to negotiate the sale of said tower to a new operator. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.

6.12 ADULT ORIENTED ESTABLISHMENTS

6.12.1. General. All requirements of Tennessee Code Annotated (TCA) §§ 7-51-1401 thru 7-51-1407 must be met except as otherwise provided in this section where more stringent requirements are in place. Nothing in this section is intended to conflict with state legislation governing adult-oriented establishments except as those permitted exceptions provided for in TCA §§ 7-51-1401 thru 7-51-1407.

6.12.2. Restrictions. In no case shall an adult-oriented establishment be permitted to locate within five-hundred (500) feet of any boundary to an R-1, R-2, or MX-1 zoning district, nor shall any proposed adult-oriented establishment be permitted to locate within five-hundred (500) feet of a residential use within any zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred (500) from the nearest property line of a site which is used for the purpose of a recreational park, playground, swimming pool, place of worship, public or private school, day care center, or another adult-oriented establishment. Measurements shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of said uses.

6.12.3. Evaluation. It shall be the responsibility of the applicant for an adult-oriented establishment to supply a site plan, as set forth in Article 7 of this ordinance, and any other maps, surveys, or other such special information as might reasonably be required and requested by the Planning Commission or its designee for use in making a thorough evaluation of the application.

6.12.4. Adult-Oriented Establishment Unlawful Acts. It shall be unlawful for any person to own, manage, or operate an adult-oriented establishment in any zone other than I-1 or to own, manage or operate such an establishment without obtaining a conditional use permit as required herein and any other permit the City of Whitwell may require. Obtaining any other required permits shall be a requirement of the conditional use permit.

6.12.5. Hours of Operation. Under the authority of TCA §7-51-1402(b) the hours of operation for an adult-oriented establishment shall be opening not earlier than one (1) o'clock p.m. and closing not later than eleven (11) o'clock p.m. Monday through Thursday, and not later than twelve (12) midnight on Fridays and Saturdays. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday as designated in TCA § 15-1-101.

6.12.6. Signs and Other Visible Messages. Signs and visible messages based on the allowable sign area of the zoning district as shown in Section 6.02 are permitted provided:

- (1) Sign messages shall be limited to a written description of material or services available on the premises;
- (2) Sign messages may not include any graphic or pictorial depiction of material or services available on the premises;

(3) Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

ARTICLE 7

SITE PLAN REQUIREMENTS

7.01 PURPOSE

The purpose of these regulations is to ensure the appropriate adherence to the City of Whitwell zoning ordinance, building codes and to promote proper planning. A site plan is required to show how development will impact the property on which it is proposed, stormwater drainage, its impact on adjacent land and property owners as well as the development's impact on the internal and external transportation system. The Planning Commission will review all site plans to ensure proper adherence to the zoning ordinance and the impact on the aforementioned areas.

Furthermore, the Zoning Officer shall inspect all development before and during construction for compliance with all regulations. Per the request of the Zoning Officer, Mayor, Planning Commission or planning staff, additional components of a site plan may be required for submission to the Planning Commission for review. Before the beginning of any construction, it is highly recommended that a developer consult with the appropriate city officials to determine requirements for a site plan. A developer will not be required to submit additional elements of a site plan following approval by the Planning Commission.

All development in a C-1, C-2, MX-1, MS-1, and I-1 zones are required to submit a site plan pursuant to these regulations. These requirements cover the development of all new structures whether primary, accessory, or an addition to a current structure as defined in Article II of this ordinance.

7.02 GENERAL STANDARDS

All site plans shall include the following:

- a. Name of the development, address, and tax ID number.
- b. Name, address and phone number for the owner of record and the applicant.
- c. Name, address, and phone number for the preparer of the site plan.
- d. Present zoning of the site and abutting property.
- e. Date, scale, and north point.
- f. Total land area for the lot.

7.03 NEW DEVELOPMENT BELOW 1,000 SQUARE FEET BUILDING AREA

In addition to the requirements listed in section 1. The site plan shall show the location of the following when existing and the location, dimensions, size, and height of the following when proposed:

- a. Sidewalks, streets, alleys, easements, and utilities
- b. Buildings and Structures

- c. Fire hydrants
- d. Driveways, entrances, exits, and parking areas,
- e. Number and size of parking spaces
- d. Number and size of loading spaces
- e. Square feet of floor space
- f. Adequate facilities for trash collection and disposal
- h. Existing and proposed easements
- i. Location, character, size, and height of proposed signs.
- j. Other items which the Planning Commission, Zoning Administrator, or planning staff may require upon review:

- (1.) Storm Drainage requirements
- (2.) A landscape plan in conformance with Article 9 of this ordinance (if applicable)

7.04 NEW DEVELOPMENT ABOVE 1,000 SQUARE FEET BUILDING AREA

Any new development in which the total building area of the primary structure is above 1,000 Square Feet shall provide a site plan showing the following:

- a. All requirements listed in Section 1, General Standards
- b. All requirements listed in Section 2 for developments below 1,000 square feet building area
- c. Storm Drainage requirements, as found in the Whitwell Subdivision Regulations Chapter 7, Section 7.07.
- d. A landscape plan in conformance with Article 9 of this ordinance

7.05 ACCESSORY STRUCTURES AND/OR ADDITIONS BELOW 1,000 SQUARE FEET BUILDING AREA

- a. Drawing showing the location of the accessory structure or addition
- b. Drawing of the current location of any structures on site
- c. List square feet of building space for accessory or addition
- d. Show location of sidewalks, streets, alleys, easements, and utilities.
- e. The Planning Commission, City Recorder, or Zoning Enforcement Officer may require additional items if deemed necessary.

7.06 ACCESSORY STRUCTURE AND/OR ADDITIONS ABOVE 1,000 SQUARE FEET BUILDING AREA

An accessory structure and/or additions to the primary structure on a property are required to submit a site plan showing the following:

- a. All requirements specified in section 3 for new development exceeding 1,000 square feet total building area.

7.07 APPEAL PROCEDURE

Upon appeal to the Planning Commission, one or more of these requirements may be waived if it is determined that it would place both an undue and unnecessary burden on the developer. In such a scenario the burden of proof is on the applicant to demonstrate to the Planning Commission why the requirement should be waived. The applicant must demonstrate how compliance to these regulations will be still be met. The process for seeking waiver of site plan requirements shall be:

1. Obtain and complete a site plan waiver form
2. Submit the form with all supporting documentation two (2) weeks prior to the Planning Commission meeting in which the applicant wishes for the appeal to be heard.
3. If steps 1 and 2 are fulfilled, the Planning Commission will meet on the appeal at the next regularly scheduled meeting.
4. The applicant will have the opportunity to address the Planning Commission and answer questions.
5. A majority vote of the Planning Commission shall approve or deny the waiver of the site plan requirement

At no time will the Planning Commission waive the requirement for a site plan or drawing of the proposed development.

ARTICLE 8

PARKING REQUIREMENTS

8.01 AMOUNT REQUIRED

There shall be provided, at the time of erection of any building or structure, or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking space of at least one hundred eighty (180) square feet per space with vehicular access to a street or alley for the specific uses as set forth below. For lots with no access to either a public or private alley, the city reserves the right to control ingress and egress over private right-of-way. Off-street parking space shall be deemed to be required open space associated with the permitted use and shall not hereafter be reduced or encroached upon in any manner.

Use	Required Spaces
Agricultural	
Farming and agricultural uses	No requirement
Aquaculture	No requirement
Riding/boarding stables, and kennels	No requirement
Civic and Institutional	
Active Park Facilities	No less than 10 spaces
Assisted Living Facility	1 space for every 4 beds plus one parking space for each employee of the largest shift
Cemeteries	No requirement
Cemeteries as accessory use to Religious organization	No requirement
Charitable, Fraternal or Social Organizations, not operated for profit	1 parking space per 200 square feet of gross floor area
Children's homes	1 space per every employee plus 1 space for every 3 occupants
Churches, parish houses, Sunday school buildings, cemeteries, and other church related activities	1 space per 4 seats in the main sanctuary, a seat being defined as at least eighteen inches of row seating or each individual chair.
Clinics	3 patient parking spaces per staff doctor, plus 2 per 3 employees plus one per staff doctor
Day Care Centers	1 space per 400 square feet of gross floor area
Medical Facilities	3 patient parking spaces per staff doctor, plus 2 per 3 employees plus one per staff doctor

Use	Amount Required
Hospitals	1 space per 2 beds (exclusive of bassinets) plus one space per 2 staff or visiting physician plus one space per employee
Municipal, county, state, or federal buildings and uses	1 per 300 square feet of usable floor area plus 1 per each 3 employees. Every governmental vehicle shall be provided with a reserved off-street parking space.
Nursing/Convalescent Home	1.25 spaces per unit
Passive Parks and Open Space	No parking requirement
Rehabilitation Centers	3 patient parking spaces per staff doctor, plus 2 per 3 employees plus one per staff doctor
Place of Public Assembly	1 space per 4 seats in the principal assembly room
Schools, public and private	
a. Elementary School	1 space per employee or staff plus one space per 25 students
b. Middle School	1 space per employee or staff plus one space per 4 students
c. High School	1 space per employee or staff plus 1 space per 3 students
d. Colleges, universities, technical schools	1 spacer per employee or staff plus 1 space per 3 students
Utility facilities necessary for the provision of public services not to include water treatment or wastewater treatment plants	No parking requirement
Water/Wastewater Treatment Plants	2 parking spaces
Office Uses	
Offices, both private and governmental	1 space per 300 square feet of gross floor area
Contracting or engineering offices and establishments	1 space per 300 square feet of gross floor area
Commercial Uses	
Adult-Oriented Establishments	1 space per 200 square feet of retail area
Amusements, and recreation, including theaters	1 space per four seats
Automotive Body Shops	1 space per employee plus one space per 250 square feet of floor area for service area, plus 1 space per 1,000 square feet of gross building area exclusive of service area

Use	Amount Required
Automotive Fuel Sales	2 spaces per bay plus 1 space per employee
Automotive Wash Facilities	1 space per employee plus 1 space per 5 wash bays
Bakeries	1 spacer per employee plus 1 space per 300 square feet of useable floor space
Bed and Breakfast Establishments	2 spaces for the owner-manager and 1 space for each guest room
Beer serving/sales establishments	1 space per 100 square feet of gross floor area
Child Care Centers	1 space per 400 square feet of gross floor area
Commercial Kennels	1 space per 500 square feet of gross floor area plus 1 space per employee
Convenience Stores	1 space per 150 square feet of retail area plus 1 space per employee
Customary Home Occupations	No parking requirement
Drive-in establishments for the retail sale of merchandise	Drive thru only: 1 space per employee
Drug stores, medical supply establishments and like uses	1 space per 300 square feet of usable floor space plus 1 per each 3 employees assigned to the largest shift
Extended Stay or All-Suite Hotels	1 space per rental unit, plus 1 space for each 2 employees, plus 1 space per 200 square feet of gross floor area devoted to eating and entertainment
Financial institutions	1 space per 300 square feet of usable floor space plus 1 per each 3 employees assigned to the largest shift
Furniture and appliance sales, service, and repair	1 per 500 square feet of retail floor area; or 1 per 1,000 square feet of gross floor area whichever is greater
Full Service Hotels or Motels	1 space per rental unit, plus 1 space for each 2 employees, plus 1 space per 200 square feet of gross floor area devoted to eating and entertainment
Funeral Homes/Crematoriums	1 space per 4 seats in the chapel plus 1 additional space per 100 square feet of floor area in each viewing room, and 1 space per vehicle operated by the establishment
Personal, business, and professional services	1 space per 300 square feet of gross floor area

Use	Amount Required
Pharmacies	1 space per 300 square feet of usable floor space plus 1 per each 3 employees assigned to the largest shift
Production and assembly of hand crafted items and custom designed products	1 parking space
Public utility stations	No parking requirement
Radio and television stations	
Restaurants	
A. Sit-down	1 space per 100 square feet of gross floor area
B. Carry Out Only	1 space per 200 square feet of gross floor area
C. Drive Thru Only	1 space per employee
Retail and Commercial Uses	1 space for 200 square feet of retail area
Shopping Centers	5 spaces per 1,000 square feet of gross leasable area
Signs and billboards	No parking requirement
Stores and shops conducting retail trade	1 space for 200 square feet of retail area
Tattoo parlors and body piercing parlors	1 space for 200 square feet of retail area
Telecommunication Towers and Antennas	Adequate area for the parking of a service vehicle
Theaters	1 space per four seats
Tire sales and recapping or retreading establishments	1 space per employee plus one space per 250 square feet of floor area for service area, plus 1 space per 1,000 square feet of gross building area exclusive of service area
Vehicle Sales and Rental	1 space for each 3,000 square feet of are devoted to the sale, display, lease, rental or repair of vehicles
Veterinary Facilities	1 space per 300 square feet of gross floor area
Wholesale Sales	1 space per 500 square feet of retail area or 1 space per 1,000 square feet of gross floor area
Industrial	
Bottling plants and milk distribution stations or packaging works	1 space per two employees in the largest shift
Engine and Motor Repair Facilities	1 space per employee plus one space per service bay
Foundries	1 space per two employees in the largest shift
Heavy Industrial Uses	1 space per two employees in the largest shift
Industrial Services	1 space per two employees in the largest shift

Use	Amount Required
Light Industrial Uses	1 space per two employees in the largest shift
Retail or service use only where it directly serves or directly serves or is auxiliary to the needs of industrial plants or employees thereof	1 additional space per 300 square feet of useable floor space dedicated to the retail use
Self-Storage Facilities	1 space per employee on the largest shift, plus 3 additional spaces for customers
Warehousing, not including self-service storage facilities	1 space per employee
Residential	
Single-Family Dwelling (excluding trailers, RVs)	2 spaces per dwelling unit
Residential above commercial	1 for per dwelling unit
Duplexes	2 spaces per dwelling unit
RV Parks	1 space for each RV space
Mobile Home Parks	2 spaces per dwelling unit
Apartments	2 spaces per dwelling unit
Groups Homes	2 spaces per dwelling unit
Halfway Houses	2 spaces per dwelling unit
Single-wide trailers	2 spaces per dwelling unit

8.02 GENERAL STANDARDS AND PROVISIONS

8.02.1. Conflicts. Any conflicts between the uses within the amount required table, the highest standard shall apply. Likewise, combination of one or more uses will provide the cumulative amount of required parking.

8.02.2. Undetermined Use. Whenever a use is proposed which does not have a minimum parking requirement, the Planning Commission will consider all available data in determining a reasonable and rational parking requirement and calculate the minimum based on similar uses.

8.02.3. Modification. Parking spaces provided to meet the requirements of this section shall not be reduced in size or number, modified, eliminated, or assigned to another use at the same time, except as allowed by these regulations. The use of required parking for the display of equipment, material, or supplies, or for the sale, repair, or dismantling of vehicles shall not be permitted.

8.02.4. General Provisions. Excluding single-family and two-family:

- a. Parking for multi-family residential uses shall not be located between the right-of-way line and the front building line. On corner lots, parking shall not be located between the building and any right-of-way line, excluding alleys.
- b. Each required parking space, aisle, and drive shall provide vehicular access to a public or private street or alley. Each parking space shall be unobstructed and independently accessible from an aisle or drive.
- c. Adequate on-site turning space shall be provided so that no vehicle will be required to back into the street.
- d. Each required parking space on a paved parking lot shall be marked by painted lines extending the full length of the space.
- e. Structures below 15,000 square feet in floor area shall provide and maintain a minimum parking surface of compacted gravel or a similar compacted mixture. For structures 15,000 square feet and above in floor area, the parking lot shall be paved. The minimum pavement specifications for required paved parking areas and accesses thereto shall conform to the following:
 - i. Concrete: The minimum thickness shall be four (4) inches for residential structures and five (5) inches for all other uses.
 - ii. Bituminous: The minimum thickness shall be four (4) inches of compacted crushed stone base with a one and one-half (1 ½)-inch compacted asphaltic concrete surface for residential use and a five (5)-inch compacted crushed stone base with a two (2)-inch compacted asphaltic concrete surface for other uses.
 - iii. Pervious Parking Surfaces Required: For the construction of parking lots which combine to equal 20,000 square feet, 15% of the parking surface shall consist of a properly installed and maintained permeable parking surface.

8.03 ALTERNATIVE PARKING STANDARDS

The amount of parking spaces may be reduced for any given land use provided that the applicant demonstrates one of the following on a site plan and through any necessary additional documentation.

8.03.1 Shared Parking. A shared parking arrangement with an adjacent lot in which the required amount of parking spaces for both uses is met. The arrangement must be formalized as a contract between the two property owners and the city.

8.03.2 On-Street Parking. Adequate on-street parking exists to meet the parking requirements provided that at least half of the off-street parking requirements are still met.

8.03.3 Reduction in Required Amount. Study from a transportation engineer showing that a proposed lower minimum parking requirement would be sufficient for the use or information submitted by the applicant of the use in a similar market area and population demographic in which fewer parking spaces have been adequate. In no case shall the minimum required parking be reduced by more than 45%.

8.04 PARKING LOT DESIGN STANDARDS

Excluding single-family and two-family uses, the following design standards for parking lots shall be adhered to:

Type of Space		Parking Angle (°)	Minimum Space Width (ft)	Minimum Space Depth (ft)	Minimum Aisle Width (') 1-way drive*	Minimum Aisle Width (') 2-way drives
Automobile Parking Spaces		0	9	25	15	20
		15	9	23	15	20
		30	9	22	15	20
		45	9	21	15	20
		60	9	20	18	20
		75	9	19	22	24
		90	9	18	24	24
Handicapped Spaces	Standard	**	14***	18-25	**	**
	Van Accessible	**	17***	18-25	**	**

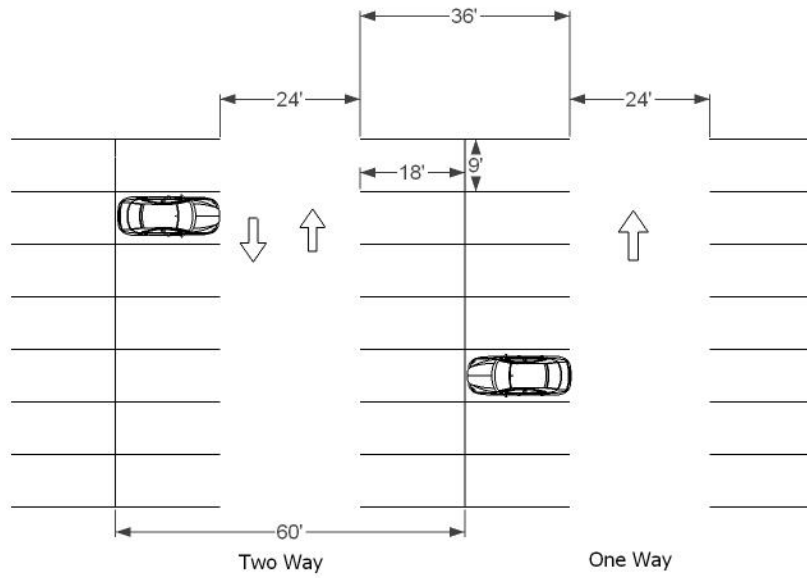
*Measured perpendicular to traffic flow in aisle

** Same requirements for automobiles

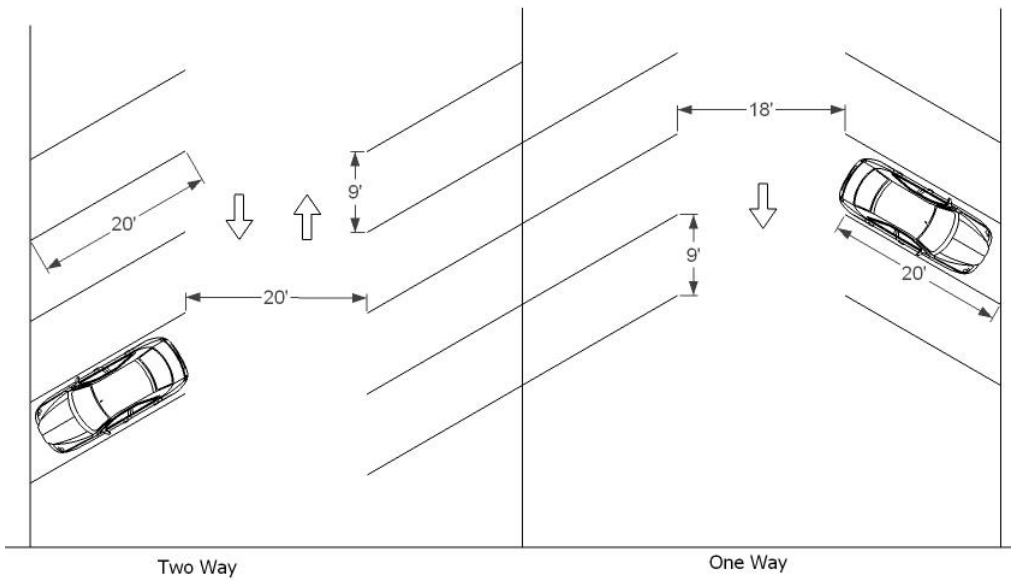
*** Includes 9 foot parking spaces and 5 foot access aisle for standard spaces and 8 foot access aisle for van accessible spaces. Access aisled may be shared by two adjacent spaces.

Illustration: Parking Space and Travel Aisle

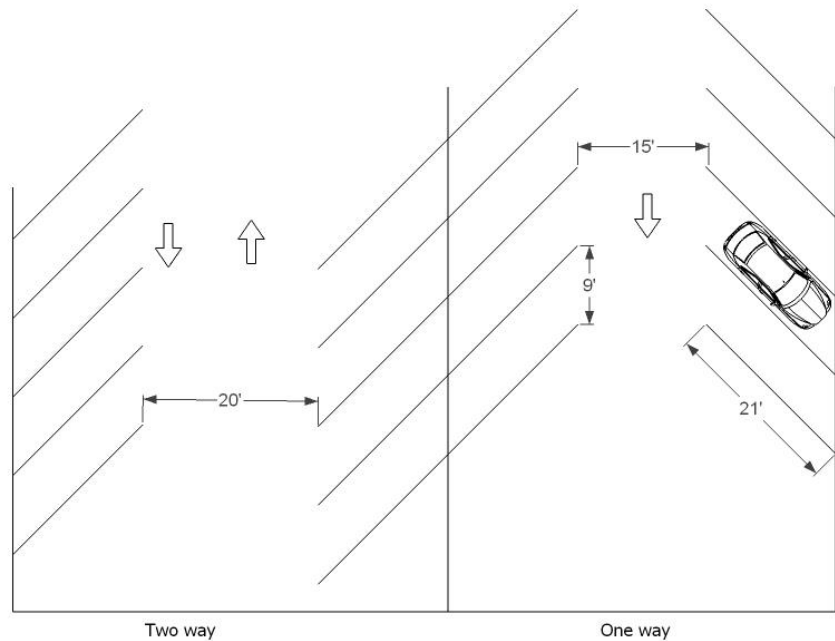
90° Parking Layout



60° Parking Layout



45° Parking Layout



8.05 OFF-STREET LOADING AND UNLOADING SPACE

Every building or structure used for business or trade shall provide adequate space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or if there is no alley, to a public street.

8.06 STACKING LANES FOR DRIVE-UP WINDOWS

8.06.1 Space Dimensions. A required stacking space shall be an area measuring nine (9) feet in width by eighteen (18) feet in length with direct forward access to an order window or device of a drive-through facility. A required stacking space shall be located to minimize any vehicle from extending into the public right-of-way. Stacking spaces for drive-through or drive-in uses may not be counted as required parking spaces.

8.06.2 Required Spaces. Stacking spaces begin at the ordering device of a drive-through facility. Uses providing a drive-up or drive-through services shall provide stacking spaces as follows:

- a. For a drive-through restaurant with indoor seating, a minimum of seven (7) stacking spaces shall be provided;
- b. For each drive-up window of a bank or other financial institution, a minimum of five (5) stacking spaces shall be provided per service window or device.
- c. For other uses, a minimum of three (3) stacking spaces shall be provided per service window.

ARTICLE 9

LANDSCAPING REQUIREMENTS

9.01 PURPOSE AND INTENT

The purpose and intent of this section is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of large scale development and parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle and other lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade and enhancing the appearance of large scale development and parking lots.

9.02 APPLICABILITY

9.02.1. Requirement. A Landscape Plan complying with the minimum standards set forth in this section shall be required for all new construction projects with a building area of fifteen thousand (15,000) square feet or any development which disturbs more than one (1) acre of land located in the C-2, or AG zoning districts. Agricultural uses are exempted from these requirements. Uses in Industrial Zones shall comply with the landscaping requirements found in Article 5, Section 5.05.

9.02.2 Minimum Landscaping Required. A minimum of ten percent (10%) of the lot area shall be landscaped to enhance site appearance. Included in the ten (10) percent coverage, there shall be maintained a landscaped strip not less than ten (10) feet wide along the street(s) right-of-way line, exclusive of business driveways and walkways.

9.02.3. Landscape Plan Required for Site Plan Approval. A Landscape Plan is required for site plan approval and issuance of a building permit; however, the planning commission may give provisional approval of a site plan pending approval of a separate Landscape Plan. The Landscape Plan must be approved and the landscaping must be installed completely prior to issuance of a Certificate of Occupancy by the building inspector.

9.03 LANDSCAPE PLAN

9.03.1. Landscape Plan as Part of Site Plan. The Landscape Plan may be included on the site plan or as a separate drawing, labeled "Landscape Plan" or shown on the site plan.

9.03.2. Landscape Plan Format. All existing and proposed landscape materials shall be labeled as to size, quantity and name on the Landscape Plan.

9.03.3. Integration of Landscaping. Landscaping shall be integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, shrubs,

ground cover, and use of building and paving materials in a manner that respects the natural topographic features and natural resources of the site.

9.03.4. Trees. All existing trees 8 inches in diameter (caliper) and greater shall be denoted on the Site Plan or Landscaping Plan. Trees to be removed shall be clearly labeled. The developer shall make an effort to preserve significant trees of 8 inches diameter or greater. Conservation of trees shall be grounds for a request for a variance. Credit shall be given for trees preserved during the development and construction process. Trees marked for preservation which are damaged or destroyed during construction, or that die within the 24 months from issuance of the certificate of occupancy, shall be replaced with an equivalent caliper of trees.

9.03.5. Tree Planting. Trees shall not be planted within 5 feet of underground utilities. Canopy trees, i.e. trees which reach a height of 30 feet or more, shall not be planted within 10 feet of the alignment of overhead utility lines. Trees shall not be planted within 10 feet of fire hydrants, utility poles and street lights.

9.03.6. Recommended Landscaping. Native plant, vegetation, and tree species are recommended for all landscaping. A list of native species can be obtained from the University of Tennessee's Agricultural Extension Office, the Tennessee Native Plant Society, and the Tennessee Department of Environment and Conservation.

9.04 LANDSCAPING REGULATIONS

9.04.1. Minimum Requirements

- a. Each acre of landscape surface area (rounded to the nearest whole number) not presently forested shall be landscaped with not less than 12 trees of 2-inch minimum diameter (caliper) and 25 shrubs not less than 18 inches high. Credit shall be given toward required trees for each tree 2-inch caliper or larger preserved during construction.
- b. The landscape strip referred to in section 9.02.2 shall be landscaped with trees and shrubs. There shall be at least one tree for every 30 linear feet or portion thereof of street frontage however; this shall not be construed as requiring the planting of trees on thirty (30) foot centers. The preferred trees for landscape strips are canopy or shade trees and evergreen trees. However, where utilities are present 1½ inch caliper understory trees, with heights at maturity of 30 feet or less may be used.
- c. Parking islands shall contain trees or shrubs and be covered with 2 to 3 inches of shredded bark, mulch or turf. Rock or pavement shall not be acceptable. Parking islands shall have a minimum of 18 inches of top soil and have a minimum interior width of 5 feet.
- d. Minimum plant sizes shall be:
 - a) Deciduous canopy trees (grow to a height of 30 feet or more) shall be a minimum of 2 inches in diameter (caliper).

- b) Understory trees (grow to a height of 30 feet or less) shall be a minimum of 1½ inches in diameter
 - c) Evergreen trees shall be a minimum of 5 feet in height.
 - d) Shrubs shall be a minimum of 18 inches in height.
- e. All landscaping materials shall be installed in a sound, workman like manner and according to professionally accepted good planting procedures. Any landscape material which fails to meet the minimum requirements at the time of installation shall be removed and replaced with acceptable materials. The persons in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat and orderly appearance, from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three (3) months.

ARTICLE 10

EXCEPTIONS AND MODIFICATIONS

This Article is established to provide relief from unnecessary hardships that may occur from the applications of this ordinance to a specific piece of property.

10.01 EXISTING LOTS

Where the owner of a plot of land consisting of one (1) or more adjacent lots, at the time of enactment of this ordinance, did not at that time own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance; or if topography, physical shape or other unique features of such lots of record prevent reasonable compliance with the setback or other requirements of the district in which the piece of land is located, may be reduced by the smallest amount that will permit reasonable use of the property as a building site. However, in no case shall the building inspector permit any lot in a residential district to be used as a building site which is less than seven thousand five hundred (7,500) square feet in total area and thirty (30) feet in width, or has a front yard setback of less than fifteen (15) feet and a side yard setback of less than three (3) feet.

10.02 FRONT YARD SETBACK OF DWELLINGS

The front yard setback requirement of this ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback but no less than the average of the setbacks of the aforementioned existing buildings.

10.03 HEIGHT LIMITS

The height limitations of this ordinance shall not apply to belfries, church spires, cupolas, domes and similar structures not intended for human occupancy, nor to chimneys, derricks, flag poles, monuments, radio or television towers or aerials, smoke stacks, transmission towers, water towers and similar structures.

The height limitations of this ordinance can be exceeded provided the following conditions are met.

1. The developer must present, at the time he/she applies for a building permit, a copy of the building plans which have been approved by the Whitwell Fire Chief. These plans must, at a minimum, show all of the following:
 - a. A wet standpipe riser with one and one-half (1 1/2) inch fire hose connections,
 - b. A wet automatic sprinkler protection system for the entire building,

- c. Enclosed exit stairways,
- d. Smoke and heat detection units, and
- e. Any other fire protection and prevention requirements which the fire chief feels are necessary for the building, including a height requirement not to exceed the capability of the Fire Department.

The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association Standards (NFPA).

10.04 NON-CONFORMITIES

It is the intent of the Whitwell Zoning Ordinance to provide reasonable avenues to change property to an allowable use under its current zoning district while allowing for the reasonable continued present use of property. Any lawful use of any building or land existing at the time of enactment of this ordinance, prior to an amendment to this ordinance, or prior to being annexed into the City, may continue although it does not conform to the provisions of this ordinance, provided that:

10.04.1 Change in Use of the Land. No change is made in the use of the land. When a change of use in the land is made, it must be done in compliance with the provisions of this ordinance. Likewise, when a change in the use of land is made, the property may not revert back to a non-conforming use.

10.04.2 Non-conforming industrial and commercial uses. In keeping with the provisions of Tennessee Code Annotated (TCA) § 13-7-208, no non-conforming industrial and commercial use that intentionally and voluntarily ceases to operate for a period of thirty (30) continuous months may be reestablished. Such 30-month period shall be counted from:

- 1) The final settlement, order, decree, or judgment when said use or establishment is a party to any action in a court of competent jurisdiction regarding the use of said property.
- 2) Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within the thirty (30) months of cessation of continuous use. Provided also that any structure so constructed or rebuilt shall conform to the setbacks and height requirements of the zoning district in which it shall be located.
- 3) The filing of an application for a building permit for the alteration, renovation or reconstruction of a non-conforming structure that a non-conforming industrial or commercial use operated from or that was located in.
- 4) The use is reactivated within the thirty (30) month period.

5) This applies only to land owned and in use by such affected business and does not permit expansion of an existing industry or business through the acquisition of additional land.

6) Provided however, the 30-month provision shall not apply to any non-conforming industrial establishment with twenty-five (25) percent or more of gross annual sales or sales as a subcontractor to contractors, are to local, state or federal governments; or where said industrial use/location where seventy-five (75) percent of gross annual sales are made to agriculture or construction business.

10.04.3 Industrial and Commercial Expansion. Industrial, commercial or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning; provided that there is a reasonable amount of space for such expansion on the property owner by such industry or business situated within the area which is affected by the change in zoning so as to avoid nuisance to adjoining landowners.

10.04.4 Off-site Signs. No off-site non-conforming sign may be re-established after being discontinued or abandoned for thirty (30) continuous months. Any expansion of said non-conforming sign shall be limited as follows:

1) Any off site sign smaller than overall dimensions of between 5-feet 4-inches to 6-feet 2-inches in height and 11-feet 4-inches to 12-feet 2-inches in width may be expanded to this size but no greater.

2) Any standard 8 sheet poster with maximum dimensions as described above may be expanded to a 30 poster size with overall dimensions not greater than 12-feet 3-inches and 24-feet 6-inches in width.

3) Any standard 30-sheet poster shall not be expanded to a size greater than any standard bulletin size, no more than 10-feet to 14-feet in height and 36-feet to 48-feet in width.

4) Any standard bulletin size sign, as described in section 3 above, shall not be expanded to a size greater than 16-feet to 20-feet in height and 60-feet in width.

5) Any off-site sign that does not meet the standards shown above may be expanded by not more than 100 percent of its surface area, provided however, the size of no sign shall exceed the maximum size permitted in section 4 above.

10.04.5 Other non-conforming uses. An existing non-conforming use, which is NOT an industrial, commercial, or business use, shall meet these criteria:

1). Any non-conforming residential use will be allowed to continue unimpeded so long as the use continues as residential. Provided that any structural alterations, additions, or expansion of buildings associated with said use shall meet the dimensional requirements of the district in which it is located. An existing non-conforming use of a building may be changed to a conforming use at any time.

2) When a non-conforming use of any structure or land, excepting non-conforming mobile homes or mobile home parks, has been discontinued for a period of thirty-six (36) months, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance. Immediately upon the removal of a non-conforming mobile home or mobile home park, the non-conformity of such structure or use of land shall lapse.

3) Any non-conforming residential structure or non-conforming use which is damaged by fire, flood, wind, or other act of God or man may be reconstructed and used as before where this is done within thirty-six (36) months of such damage.

ARTICLE 11

ADMINISTRATION, ENFORCEMENT AND PENALTIES

The intent of this Article is to provide for suitable and proper administration and enforcement of the provisions of this ordinance; to designate the enforcing officer and to outline the proper steps to be taken by parties interested in constructing, erecting or modifying a structure or other land use; to include a means whereby appeals can be made; and to set forth the penalties for violating the provisions of this ordinance.

11.01 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.

11.02 TABLE OF RESPONSIBLE BODIES

	Planning Commission	Board of Zoning Appeals	City Commission	Administrative
Zoning Ordinance Text Amendment	M-R		H-D	
Zoning Map Amendment (Rezoning)	M-R		H-D	
Site Plan Review	M-D			
Variance		M-D		
Appeal of Administrative Decision		M-D		
Sign Permit		M-A		D

H = Hearing (Public Hearing Required)

M = Meeting (Public Meeting Required)

R = Recommendation (Responsible for Review and a Recommendation)

D = Decision (Responsible for Final Decision)

A = Appeal (Authority to Hear/Decide Appeals)

11.03 THE ZONING (ENFORCEMENT) OFFICER.

The provisions of this ordinance shall be administered by the Whitwell Zoning Officer or his/her authorized representative. The Zoning Officer shall be appointed by the Whitwell Board of Mayor and Commissioners. The zoning officer shall administer and enforce this ordinance and, 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. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The zoning officer 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.

11.04 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 accessory structures, or to commence the filling of land until the zoning officer has issued for such work a Building Permit containing a statement that the plans, specifications, and intended use of such structure in all respects conform with the provisions of this ordinance. No building permit shall be required for any construction development having a value of less than one thousand (\$1,000.00) dollars. Application for a Building Permit shall be made in writing to the zoning officer on forms provided for that purpose. It shall be unlawful for the zoning officer to approve the plans or issue a Building Permit for any excavation, construction, moving, or alteration until such plans have been inspected in detail by the enforcement officer and found to be in conformity with this ordinance. To this end, the application for a Building Permit for excavation, construction, moving or alteration shall be accompanied by a plan or plat drawn to a scale and showing the following in sufficient detail to enable the zoning officer to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this ordinance:

- a. The actual shape, location, and dimensions of the lot to be built upon.
- b. 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.

- c. Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- d. All the requirements of Article 7 of this ordinance, if applicable.

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 officer shall issue a Building Permit for such excavation, construction, moving, or alteration. If an application for a building permit is not approved, the zoning officer 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, and building permits shall be void after six (6) months from the date of issuance unless substantial progress on the project has been made by that time.

11.05 TEMPORARY USE PERMITS.

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Whitwell Zoning Officer as provided in Article 11, Section 11.04 of this ordinance. Application for a Temporary Use Permit shall be made in writing to the zoning officer on the forms provided for that purpose.

11.06 CERTIFICATE OF OCCUPANCY.

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

11.07 PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW.

The following process is established to provide procedures for review of a proposed use by the Planning Commission. The procedure shall be the same whether review is required by this ordinance or whether a review is requested by the zoning officer to determine whether a proposed use is potentially noxious, dangerous, or offensive. This procedure shall also be used in submitting special exception for Board of Zoning Appeals review.

1. Application. An application shall be filed with the Planning Commission for review. Said application shall show the location and intended use of the site, the names of the

property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Planning Commission may require.

2. Restrictions. In the exercise of its approval, the Planning Commission 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.
3. Validity of Plans. All approved plans, conditions, restrictions, and rules made a part of the approval of the planning commission shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.
4. Time Limit. All applications reviewed by the planning commission 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.
5. Due Process. All applicants shall be afforded the opportunity to speak and present their application to the Planning Commission.

11.08 CITY BOARD OF ZONING APPEALS.

A Whitwell Board of Zoning Appeals is hereby established in accordance with Tennessee Code Annotated §§ 13-7-205 through 13-7-207. The Board of Zoning Appeals shall consist of five (5) members appointed by the Mayor of Whitwell. The Board members shall be appointed to five (5) year terms; however, the initial appointments shall be arranged so that the term of one (1) member will expire each year.

1. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of application and action taken thereon which shall be public records.
2. Appeals to the Board. An appeal to the Whitwell Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the zoning officer 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 officer shall transmit to the Board all papers constituting the record upon which the action appealed 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.
3. Powers of the Board. The Board of Zoning Appeals shall have the following powers:

- a. 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 officer or any other administrative official in the carrying out of the enforcement of any provision of this ordinance.
- b. 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.
- c. Variances. To hear and decide applications for variances from the terms of this ordinance.

11.09 VARIANCES.

The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from reasonably using his property under this ordinance.

1. Application. Before or 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.
2. Hearings. Upon receipt of an application, the Board of Zoning Appeals shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.
3. Standards for Variances. In granting a variance, the Board shall ascertain that the following criteria are met:
 - a. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.
 - b. Variances shall not be granted to allow for a use otherwise excluded from the particular district in which requested.
 - c. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this

ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.

d. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.

e. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefore.

11.10 AMENDMENTS TO THE ORDINANCE.

1. The regulations and the number or boundaries of districts established by this ordinance, may be amended, supplemented, changed, modified, or repealed by the Whitwell Board of Mayor and Commissioners; but, in accordance with TCA § 13-7-204, no amendment shall become effective unless it is first submitted to and approved by the Whitwell Municipal Planning Commission or, if disapproved, shall receive a majority vote of the entire membership of the Whitwell Board of Mayor and Commissioners. Before final adoption any such amendment, the Board 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 Whitwell.

2. An application by an individual for an amendment shall be accompanied by a fee of one hundred (\$100.00) dollars payable to the City of Whitwell.

3. Any amendment to the Official Zoning Map shall be indicated on such map by an entry which states:

“On _____, by official action of the Board of Mayor and Commissioners, the following change(s) were made in the Official Zoning Map: (brief description of the nature of the changes)”

Such entry shall be signed by the Mayor and attested by the City Manager. No amendment to these regulations which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map. From time to time, as deemed necessary by the Planning Commission, the Zoning Map may be readopted to reflect duly completed changes.

11.11 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) nor more than fifty dollars (\$50) for each offense. Each day such violation shall continue constitutes a separate offense.

11.12 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 officer 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 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.

11.13 VALIDITY.

Should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, this judgment shall not affect the validity of this ordinance as a whole or any other part than the part judged invalid.

11.14 INTERPRETATION.

Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or any other ordinance, the provisions which are more restrictive shall govern.

11.15 EFFECTIVE DATE.

This ordinance shall become effective fifteen (15) days after the final reading, and publication as required by law, the public welfare requiring it.

RECOMMENDED BY THE PLANNING COMMISSION: February 27, 2014

Date Advertised in the *Jasper Journal* _____, 2014

First Reading: _____

Second Reading: _____

Third (final) Reading: _____

Date of Public Hearing: _____

Mayor

ATTEST: _____

City Recorder

Whitwell, Tennessee

Zoning Ordinance

As Amended through June 2021
As Amended through August 2021