

TITLE 11

PLANNING AND ZONING

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 11-101. Creation and membership.
11-102. Organization, powers, duties, etc.

11-101. Creation and membership. Pursuant to the provisions of section 13-4-101 of the Tennessee Code Annotated there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and a commissioner selected by the board of commissioners; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for three (3) years each. Of the five (5) members first appointed, one (1) shall be appointed for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years so that the term of at least one (1) member expires each year. The terms of the mayor and the member selected by the board of commissioners shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (ord. 35, modified)

11-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of title 13, Tennessee Code Annotated. (ord. 35, modified)

CHAPTER 2

ZONING ORDINANCE

SECTION

- 11-201. Purpose of ordinance.
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11-201. Purpose of ordinance. The board of commissioners finds as a fact that the public health, safety, morals, convenience, order, prosperity and general welfare require the enactment of an ordinance regulating the location, height, bulk, number of stories, and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts, and other open spaces, the density of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, and other related purposes pursuant to the provisions of section 13-7-201 of the Tennessee Code Annotated, as amended. (ord. 39, sec. 1)

11-202. Districts. In order to designate districts for the purposes of this ordinance, the City of Lakewood is hereby divided into the following districts:

Agricultural districts
Residence districts
Commercial districts
Industrial districts
(ord. 39, sec. 2)

11-203. Boundaries and maps. The boundaries of such districts are hereby established upon the Map, designated BUILDING ZONE MAP, CITY OF

LAKESWOOD, TENNESSEE, which is, and shall remain on file in the office of the City Manager of Lakewood, Tennessee. The Building Zone Map, consisting of _____ separate parts, and identified herein as _____,¹ all of which are sections of the same map covering the entire territory of the city and the key map and chart containing the explanation of symbols and indications which appear on the building zone map, are hereby made a part of this ordinance as fully as though copied into the text thereof. (ord. 39, sec. 3)

11-204. General prohibitions. No building or structure shall be erected or altered, nor shall any building or premises be used for any purpose, other than a use permitted in the district in which such building or premises is located. No building or premises shall be used so as to produce greater heights, smaller yards, or less unoccupied area, and no building shall be occupied by more families than hereinafter prescribed for such building for the district in which it is located. No lot which is now or may be hereafter built upon, as required herein, may be so reduced in area that the yards and open spaces will be smaller than prescribed by this ordinance, and no yard, court, or open space provided about any building for the purpose of complying with the provisions of this ordinance shall again be used as a yard, court, or other open space for any other building. (ord. 39, sec. 4)

11-205. Agricultural districts. Within any agricultural district, no building structure or premises shall be used, arranged or designed to be used, except for one or more of the following uses:

- (1) All types of agriculture, truck gardening, horticulture, dairying, livestock, animal and poultry raising.
- (2) A detached dwelling for one or two families.
- (3) Churches and other places of worship, club houses, and other meeting places for non-profit organizations, but involving the conduct of any business.
- (4) Public schools, parochial schools, or private schools having a curriculum substantially similar to that ordinarily given in public elementary or high schools, colleges, and universities.
- (5) Hospitals and sanitariums, but not for the emotionally disturbed.
- (6) A site plan for any building, other than dwellings, barns, or other buildings related to the agricultural use of the land, shall first be presented to and approved by the planning commission, prior to the issuance of any building permit. In approving such site plan the planning commission shall consider

¹This map has been amended by ordinance No. 48 which is of record in the recorder's office.

such standards as ingress and egress to and from the site, provisions for recreation, and the screening of recreation areas.

(7) Bulletin boards and signs shall be permitted, not exceeding the aggregate area of twenty square feet, bearing notice or pertaining only to the sale of products grown or produced or services rendered upon the premises or advertising only the lease, hire, or sale of only the particular property on the premises upon which the sign is displayed. No such sign or bulletin board exceeding four square feet in area shall be erected or displayed so as to project in any manner into the setback line area as established by this ordinance for agricultural districts.

(8) Accessory buildings and uses customarily incident to any of the above permitted uses shall be proper, but not involving the conduct of a business or industry.

(9) Height. No building shall exceed forty feet or two and one-half stories in height; provided, however, churches, hospitals, schools, or any other public buildings permitted to be constructed in an agricultural district, may be built to a height of seventy feet or four stories, provided that any such buildings set back from every street and lot line, one foot for each foot of height of the building in excess of forty feet, in addition to other yard and setback requirements herein specified and provided.

(10) Rear yards. There shall be a rear yard on every lot, which rear yard shall have a minimum depth of fifty feet. Accessory buildings may be located in the rear yard, provided they occupy not more than twenty per cent of the rear yard area, and also provided such accessory buildings come not nearer than five feet to any lot line.

(11) Side yards. There shall be a side yard on each side of every building, except as above provided for accessory buildings, the minimum width of which shall be not less than twenty feet.

(12) Setback line. No building shall be erected or altered so as to project in any manner beyond a line which is fifty feet from the street line, provided that where the frontage on a street is partly built upon, the setback line shall be established as the average of the setback of the existing buildings on the same side of the street.

(13) Lot area. Each one-family or two-family dwelling shall have a lot area of not less than one acre.

(14) Parking. Off-street parking spaces shall be provided as follows:

(a) One car space for each one-family dwelling and two car spaces for each two-family dwelling.

(b) Churches: one space for each four seats in the church sanctuary.

(c) Schools: one space per classroom, and in the case of gymnasiums or stadiums, one space for each five seats.

(d) Club houses: one space for each 1000 square feet of floor area.

(e) Hospitals and sanitariums: one space for each four beds.

(15) In all Agricultural districts, no barn, stable, or other enclosure for the keeping of livestock, horses, or poultry, or for the storage of hay, grain, or other farm products shall be erected or constructed nearer than one hundred feet to the lot line of any residence district. (ord. 39, sec. 5)

11-206. Residence districts. Within any residence district, no building, structure, or premises shall be used, arranged or designed to be used except for one or more of the following uses:

(1) A detached dwelling for only one family or for one housekeeping unit, not to be construed to include house trailers or mobile homes on wheels or otherwise.

(2) A detached dwelling for two families or two housekeeping units, not to be construed to include house trailers or mobile homes on wheels or otherwise.

(3) The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two in any one-family dwelling nor four in any two-family dwelling.

(4) Churches and other places of worship.

(5) Nurseries and noncommercial greenhouses.

(6) Farms, including all types of agriculture and horticulture, but not including commercial dairies, commercial animal kennels, or commercial poultry activities. The feeding and grazing of cattle and horses shall be permitted where not less than two acres are provided for each such animal. The keeping of a pony shall be permitted where not less than one acre is provided for each such pony. The keeping of hogs for any purpose shall be prohibited in all residence districts.

(7) Multi-family uses. Within the residence districts, multi-family uses in excess of two families but not exceeding six families shall be permitted in accordance with the procedures for special exceptions that may be granted by the board of zoning appeals, as provided hereafter in section 11-212, subsections (h)(5).

(8) Public schools, elementary and high schools, parochial schools, or private schools, having a curriculum substantially similar to that ordinarily given in public elementary or public high schools.

(9) Municipal recreation buildings, playgrounds and parks.

(10) Railway rights-of-way, except railway yards.

(11) Accessory uses customarily incident to any of the above permitted uses, but not including the conduct of business or industry, or any drive-way giving access thereto.

(a) A private garage on the same lot with or within the building to which it is accessory and in which garage no business or industry is conducted.

(b) Customary home occupations carried on in the residence of the occupant and not in an accessory building, provided that not more than one-half of the floor area of one story is devoted to such uses, and provided further, that said customary home occupations shall not be construed to mean beauty parlors in any residence districts.

(c) Signs pertaining to the lease, sale, or use of a lot or building may be placed thereon, provided the total area of all such signs does not exceed eight square feet. One sign or bulletin board not exceeding thirty square feet in area may be erected upon the premises of a church or other permitted institution for the purpose of displaying the name and activities or services therein provided.

(12) Height. No building shall exceed thirty-five feet or two and one-half stories in height. Churches, schools, or any other buildings permitted to be constructed in a residence district may be built to a height of seventy feet or four stories, provided any such building sets back from every street and lot line one foot for each foot of height of the building in excess of thirty-five feet, in addition to other yard and setback requirements herein specified.

(13) Rear yards. There shall be a rear yard on every lot, which rear yard shall have a minimum depth of twenty-four feet for a one-story building, which depth shall be increased to thirty-six feet for a two or two and one-half story building. Accessory buildings not over fifteen feet high may be located in the rear yard, provided such buildings occupy no more than twenty-five percent of the rear yard area, and provided further that no accessory buildings come nearer than five feet to any lot line.

(14) Side yards. There shall be a side yard on each side of every building, except as heretofore provided for accessory buildings. The minimum width of any side yard shall be ten feet and the least sum of the widths of both side yards shall be twenty feet.

(15) Setback line. No building shall be erected or altered so as to project in any manner beyond a line which is distant from the street line the average distance therefrom of the buildings fronting on the same side of the street within the block on the effective date of this ordinance. Where no building exists fronting on the same side of the street within the block, no new building shall be erected with its street wall or walls nearer than thirty feet to the street line.

(16) Lot area. The minimum requirement shall be ten thousand square feet of lot area for each dwelling containing one family unit, to be increased to 16,000 square feet for a two-family dwelling.

(17) Parking. Off-street parking spaces shall be provided as follows:

- (a) One car space shall be provided for each one-family dwelling and two car spaces for each two-family dwelling.
- (b) Churches: one space shall be provided for each four seats in the church sanctuary.
- (c) Schools: one car space shall be provided for each classroom, and in the case of gymnasiums or stadiums, one space for each five seats.
- (d) Hospitals and sanitariums: one space for each four beds.
(ord. 39, sec. 6)

11-207. Commercial districts. Within any commercial district, no building, structure, or premises shall be used, arranged, or designed to be used in any part except for one or more of the following uses:

(1) Any use permitted in any residence district, provided any such use shall comply with all of the requirements of section 11-206, "Residence districts," including all lot area and off-street parking requirements.

(2) Hotels and motels.

(3) House trailers or mobile homes not exceeding two in number on any lot, provided that such house trailers or mobile homes shall comply with all of the requirements for residence districts with respect to lot area and off-street parking requirements.

(4) Mobile home parks, housing three or more trailers or mobile homes, provided that any mobile home park designed for three or more mobile homes shall provide a minimum lot area of twelve thousand square feet for the first three mobile homes accommodated and an additional fifteen hundred square feet of lot area for each mobile home accommodated in excess of the first three mobile homes. No mobile home shall be located closer than five feet to the rear or side property lines, nor closer than fifteen feet to any street line or the principal driveway giving access to the mobile home park. No mobile home shall be placed closer than five feet to the side line of the designated mobile home space, nor shall any such mobile home be placed closer than fifteen feet to any adjacent mobile home. All driveways giving access to mobile home spaces and the mobile homes located thereon shall have a width of at least twenty feet. The outer margin of no mobile home shall encroach closer than fifty feet to any duly established residence district. Every mobile home park shall be adequately lighted, shall have adequate fire protection, including the installation of fire hydrants where necessary, and shall contain at least one parking space per mobile home space, independent of driveways and public ways.

Every application for the construction, operation, maintenance, and occupancy for a mobile home shall be accompanied with plans and specifications, fully setting out the mobile home spaces, the position of each mobile home, parking space, the driveway giving access thereto, and providing a connection to a sanitary sewer for each and every mobile home. Before any permit is issued for a mobile home and the use thereof, the plans and specifications shall first be

approved by the city manager, taking into account the standards provided herein, and provided further that said plans and specifications are in accordance with all regulations of the State of Tennessee governing trailer courts or mobile homes.

(5) Commercial billboard or advertising signs, provided the same relate only to the business or occupation located on the same lot with such billboard or advertising sign. Off-site or off-premises billboards and signs shall be prohibited in the commercial district.

(6) Restaurants.

(7) Hand laundry and self-service laundries.

(8) Shops for making articles to be sold on the premises at retail only.

(9) Dry cleaning and pressing shops, but limited to operations of a retail nature where the work handled comes directly from the customer to the shop. All cleaning and drying processes shall be carried on at least fifty feet away from the nearest residence district.

(10) Public garages, motor vehicle sales rooms, service garages and gasoline filling stations, subject to the limitations of Section 11-209, "General provisions," sub-section (h), but provided that no repairing shall be done within fifty feet of any residence district, and no entrance or exit shall be within fifty feet of any residence district, and provided further that no facilities for oiling or greasing automobiles shall be located within fifty feet of any residence district.

(11) Florist shops and retail greenhouses.

(12) Studios and offices.

(13) Banks.

(14) Theaters.

(15) Funeral homes.

(16) Assembly halls.

(17) Retail poultry business, including the storage and killing of poultry or game to be sold entirely at retail upon the premises, directly to the ultimate consumer, provided all public health regulations are observed and that the adjacent premises or the occupants thereof are not injured by reason of the emission of dust, smoke, odors, noise, or vibrations.

(18) Truck gardens.

(19) Retail businesses generally.

(20) Any other enterprise for profit, for the convenience and service of and dealing directly with and accessible to the ultimate consumer and being an enterprise not mentioned as prohibited in this section, and which is not injurious to adjacent premises or the occupants thereof by reason of the emission of dust, fumes, smoke, odor, noise, vibration, or which would endanger life or property.

(21) Accessory uses shall be permitted that are customarily incident to the above stated permissive uses.

(22) Height. No building shall exceed forty-five feet or three stories in height. Churches, schools, hospitals, or other public buildings permitted to be constructed in a commercial district may be built to a height of seventy feet or four stories, provided any such building sets back from every street and lot line in addition to any other yard and setback requirements specified for commercial districts one foot for each two feet of height of the building above forty-five feet.

(23) Rear yards. There shall be a rear yard on every lot, which rear yard shall have a minimum depth of sixteen feet for a one-story building, twenty feet for a two-story building and twenty-four feet for a three story building. Such depths shall be increased by twenty-five percent if the building is designed for residential purposes only. This provision shall not apply in mobile home parks.

(24) Side yards. There shall be a side yard on each side of every building or portion of a building used as a dwelling, which side yard shall have a minimum width of five feet increased by two feet for each story above the first story. This provision shall not apply in mobile home parks.

(25) Setback line. At the intersection of a street in a commercial district with a street in any residence district where the corner or succeeding lots were on the effective date of this ordinance were platted to face the street in the residence district, the setback line requirements for the lots included in the commercial district shall be a continuation of the setback line requirements of the residence district portion of the block.

Where on any street frontage in a commercial district a specific setback line is indicated on the building zone map, such setback line shall be the setback line for that frontage, provided, however, that projection signs, ground signs, marquees, and awnings, and the ground support for such signs or awnings may be erected in the setback area, and provided further that the city manager may issue a modified building permit for such sign, marquee or awning only after the owner and/or lessee shall file with the city manager an executed contract agreeing that the said owner or lessee, their heirs, assigns or successors, will remove such sign, marquee or awning within ten days after notice so to do without any cost or obligation of any kind whatsoever to the City of Lakewood. This provision shall not apply to mobile home parks.

(26) Parking. Off-street parking spaces shall be provided in the commercial district, as follows:

(a) One car space shall be provided for each dwelling unit within the district.

(b) Churches: One space shall be provided for each four seats in the church sanctuary.

(c) Schools: One car space shall be provided for each classroom, and in the case of gymnasiums, stadiums, one space for each five seats therein.

(d) Hospitals and sanitariums: One space for each four beds.

(e) Hotels and motels: One space shall be provided for each three guest rooms.

(f) Office buildings and other commercial buildings: one parking space for each 200 square feet of gross floor area.

(27) Prohibited uses in commercial districts. Within any commercial district, no building, structure, or premises shall be used, arranged, or designed to be used in any part for any of the following uses:

- (a) Blacksmith or horse-shoeing shop.
- (b) Bleaching or dyeing shop.
- (c) Brewery or distillery.
- (d) Carpet cleaning.
- (e) Coal, coke, or wood yard.
- (f) Contractor's plant.
- (g) Ice manufacturing plant.
- (h) Lumber yard.
- (i) Wholesale produce market.
- (j) Steam or power laundry.
- (k) Rock crusher or rock quarry.
- (l) Saw, planeing, or woodworking mill.
- (m) Stable for more than one horse or pony.
- (n) Stone yard or monument works.
- (o) Any other industry or use which creates corrosive, toxic, or other fumes, gas, smoke, odors, obnoxious dust or vapor, offensive noise or vibration. (ord. 39, sec. 7)

11-208. Industrial districts. (a) Except as hereinafter provided, nothing in this ordinance shall prevent the use of any building or premises for any lawful purpose in the industrial district, except that the off-street parking provisions provided for in section 11-207 (26) of this code shall fully apply to all uses of property in the industrial district, as defined in the building zone map.

(b) Within the industrial district, no building, structure or premises shall be used, arranged, or designed to be used in any part or manner for any of the following uses:

- (1) Aluminum, brass, copper, iron or steel foundry or works.
- (2) Acetylene gas manufacture.
- (3) Ammonia, bleaching powder, or chlorine manufacture.
- (4) Asphalt manufacture or refining.
- (5) Auto wrecking.
- (6) Blast furnace.
- (7) Boiler works or forge works.
- (8) Brick, tile, or terra-cotta manufacture.
- (9) Celluloid manufacture, treatment or storage.

- (10) Coke manufacture.
- (11) Creosote manufacture or treatment.
- (12) Disinfectant or insecticide manufacture.
- (13) Distillation of bones, coal, tar, or wood.
- (14) Dyestuff manufacture.
- (15) Dyeing at wholesale.
- (16) Fat rendering.
- (17) Fertilizer manufacture.
- (18) Gas manufacture or storage.
- (19) Glue, gelatin, or size manufacture.
- (20) Incineration or reduction of dead animals, garbage, offal, or refuse other than garbage, offal, or refuse accumulated and consumed without odor on the same premises.
- (21) Lamp black manufacture.
- (22) Match manufacture.
- (23) Lime, cement, or plaster of paris manufacture.
- (24) Oilcloth or linoleum manufacture.
- (25) Pickle, sausage, sauerkraut, or vinegar manufacture.
- (26) Paint pigment, oil, varnish, or turpentine manufacture.
- (27) Paper and pulp manufacturing by sulphide processes emitting noxious gases or odors.
- (28) Printing ink manufacture.
- (29) Rayon or cellophane manufacture.
- (30) Refining of petroleum or other crude materials.
- (31) Rolling mill.
- (32) Rubber manufacture from crude materials.
- (33) Shoddy manufacture.
- (34) Soda ash, caustic soda, and washing compound manufacture.
- (35) Slaughtering of animals, exclusive of poultry killing.
- (36) Smelting.
- (37) Soap manufacture.
- (38) Starch, glucose, dextrine manufacture.
- (39) Stock yards.
- (40) Storage or baling of scrap paper or rags.
- (41) Storage of dismantled automobiles or any form of junk.
- (42) Sugar refining.
- (43) Sulphureous, sulphuric, nitric or hydrochloric acid manufacture.
- (44) Tallow, grease, or lard manufacture or refining.
- (45) Tanning or curing of leather, raw hides, or skins or storage of raw hides or skins.
- (46) Tar distillation or manufacture.
- (47) Tar roofing or tar waterproofing manufacture.

- (48) Tobacco manufacturing or treatment for chewing purposes.
- (49) Wool scouring; hair manufacture.
- (50) Yeast manufacture.
- (51) Any other trade, industry or use that is injurious, noxious, offensive or hazardous by reason of the emission of odor, dust, fumes, smoke, noise or vibration.

(c) Height limitations. Within the industrial district, no building may be built to a height exceeding twice the width of the street upon which the building abuts. Buildings may exceed this height provided the portion of the building higher than twice the width of the street is set back from every street and lot line one foot for each three feet of height in excess of twice the width of the street.

(d) Side yards. There shall be a side yard on each side of every building or portion of a building used as a dwelling, the minimum width of which shall be five (5) feet, which width shall be increased by two (2) feet for each additional story above the first story.

(e) Rear yards. In the industrial district, along any boundary line between such district and any residence district a rear yard shall be required, the minimum depth of which shall be twenty (20) feet, increased by two (2) feet for each story above the first story. Every building extending back to an alley shall provide on such lot adequate space for the loading or unloading of trucks and other vehicles servicing such building.

(f) Setback line. Where on any street frontage in an industrial district a specific setback line is indicated on the building zone map, such setback line shall be the setback for the frontage; provided, however, that projection signs, ground signs, marquees, and awnings, and the ground support for such signs or awnings may be erected in the setback area, and provided further that the city manager may issue a modified building permit for such sign, marquee, or awning only after the owner and/or lessee shall file with the city manager an executed covenant agreeing that the owner or lessee, their heirs, assigns, or successors will remove such sign, marquee, or awning within ten days after notice to do so without any cost or obligation of any kind whatsoever to the City of Lakewood. (ord. 39, sec. 8)

11-209. General Provisions. (a) Parapet walls not exceeding four feet in height, chimneys, ventilators, cooling towers, elevators, bulkheads, tanks, radio towers, ornamental towers, monuments, cupolas, domes, and spires may be erected above the height limits herein established.

(b) Every part of a yard required herein shall be open and unobstructed from the lowest point to the ground level to the sky, except for the ordinary projections of window sills, belt courses and other ornamental features to the extent of not more than four inches.

(c) Fences or walls not more than six feet high may be erected in any residence district, but no fence, wall or shrubbery shall be maintained at any street intersection in such manner as to interfere with traffic visibility around the corner.

(d) Cornices may extend not more than eighteen inches into any yard.

(e) Chimneys may be erected within the limits prescribed for yards; provided they do not extend more than two feet into any such yard.

(f) In commercial and industrial districts, unless otherwise provided for, the measurement of the depth of rear yards may be made to the center line of the alley, should an alley exist at the rear of the premises.

(g) Nothing herein contained shall prevent the restoration of a wall declared to be unsafe by the city manager.

(h) No gasoline service station or place of business where motor fuels, lubricating oils, or motor accessories are sold or motor vehicles are repaired, may be established, constructed, or maintained within three hundred (300) feet of any property upon which a church, school, or hospital building is located or in operation, such distance to be measured on a straight or air line from the outer margin or boundary of such church, school, or hospital property to the outer margin or boundary of the gasoline service station or place of business. This provision shall have no application or effect upon any gasoline service station or place of business in existence on the effective date of this ordinance, and provided further that this provision shall have no application in any industrial district.

(i) Any lot of record by deed or plat or any lot for which a contract of sale was in full force and effect on the effective date of this ordinance, having less area than required by this ordinance may be used as a building site.

(j) Signs and bulletin boards may be erected within the setback area for a church or other permitted institution for the purpose of displaying the name and activities of the services therein, provided that such sign or bulletin board shall be neither flashing nor animated, and provided further that any such sign or bulletin board, or any part hereof, shall not project in any manner over into a public way.

(k) Where any Major Thoroughfare Plan for the City of Lakewood, approved and adopted by the Lakewood Planning Commission, shows a future street width greater than the dedicated width of such street, then the setback and side yards abutting on said street shall be measured from the margin of the future street width.

(l) On a through-lot exceeding two hundred (200) feet in depth, the setback regulations along each street shall be observed; provided, however, that this provision shall apply only to the sections of this ordinance dealing with agricultural and residential districts.

(m) In all districts, no sign shall project across a street line, or the line of any other public way, including sidewalk areas, nor shall any sign be so

placed in any district for any purpose where such sign by direct or indirect illumination is calculated to or does impede vision of the drivers of motor vehicles using either public or private rights of way. No sign shall be so constructed or arranged as to produce glare or illumination directly upon any residential property. (ord. 39, sec. 9)

11-210. Definitions. For the purposes of this ordinance, the following words and terms are defined and shall apply:

(a) Words and phrases. Words used in the present tense shall include the future. The singular number includes the plural and the plural the singular. The word "lot" includes the word "plot." The word "building" includes the word "structure" and shall include fences, tents, lunch wagons, dining cars, camp cars, mobile homes, or other structures on wheels or other supports and used for business or living purposes.

(b) Accessory use or building. An accessory use or building is a subordinate use or building customarily incident to and located on the same lot with the principal use or building.

(c) Alley. A narrow thoroughfare upon which abuts, generally, the rear of premises and which is not more than twenty (20) feet wide.

(d) Area, gross floor. The area of the planned projection of all floors of whatever nature within or attached to a building or dwelling, exclusive of pedestrian ways.

(e) Court. An open, unoccupied, and unobstructed space other than a yard on the same lot as a building. An outer court is a court extending to a street or to a front or rear yard. An inner court is a court not extending to a street or to a front or rear yard.

(f) Dwelling. Any house or building or portion thereof which is occupied in whole or in part as the home, residence, or sleeping place of one or more persons either permanently or transiently.

(g) Garage.

(1) Private garage. A private garage is a building or space used as an accessory to a main building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

(2) Public garage. Any garage other than a private garage for the storage of motor vehicles at which repairs on any kind of motor vehicle is permitted or at which the sale of accessories and filling station service is permitted.

(h) Half story. A story which is situated under a sloping roof, the floor area of which does not exceed one half the floor area of the floor immediately below it.

(i) Height of building. The vertical distance from the established sidewalk grade at the center of the front of the building to the highest point of

the roof surface if a flat roof; to the deck line for mansard roofs and to the mean height level between eaves and ridge for gables, hip, and gambrel roofs. For buildings set back from the street line "height of building" may be measured from the average elevation of the finished grade along the front of the building.

(j) Lot. A piece or parcel of land occupied or to be occupied by one main building and its accessory buildings and including the open spaces required under this ordinance.

(1) Corner lot. A lot abutting upon two or more streets at their intersection, provided the angle at which the streets intersect does not exceed one hundred thirty-five degrees.

(2) Interior lot. A lot, the side lines of which do not abut any street.

(3) Front lot line. The front lot line is the line separating the lot from the street. On a corner lot, the owner shall, for the purpose of this ordinance, have the privilege of electing any street lot line as the front line, provided it is so designated on the building plans filed for approval with the city manager.

(4) Rear lot line. The lot line opposite and most distant from the front lot line is the rear lot line. The rear lot line on any irregular or triangular lot shall, for the purpose of this ordinance, be a line entirely within the lot ten feet long and parallel to and most distant from the front lot line.

(5) Side lot line. Any lot line not a front lot line or a rear lot line shall be termed a side lot line. A side lot line separating a lot from a street is a side street lot line.

(6) Through lot. An interior lot having frontage on two parallel or approximately parallel streets.

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

(l) Principal building. A building which contains the principal activity or use located on the zone lot on which it is situated.

(m) Residence. A building or part of a building containing one or more dwelling units or rooming units, including one-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartment hotels, but not including transient hotels, motels, tourist homes, sanitariums, nursing homes, convalescent homes, or rest homes.

(n) Setback line. The setback line is a line back of the street line between which and the street line no building or portion thereof may be erected above the established sidewalk grade at the center of the front of the building.

(o) Stable, private. A stable with capacity for not more than two horses, provided, however, that the capacity for a private stable may be

increased if the lot whereon such stable is situated contains an area of not less than two acres for each additional horse accommodated.

(p) Street. A public thoroughfare more than twenty (20) feet wide, provided however, that any existing thoroughfare less than twenty feet wide, generally known as a street on the effective date of this ordinance shall be known as a street for the purposes of this ordinance.

(q) Yard. An existing or required open space on the same lot with a principal building and lying along the adjacent lot line, open, unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this ordinance.

(1) Rear yard. A yard extending for the full length of a rear lot line.

(2) Side yard. A yard along the side line of a lot and extending from the setback line to the rear yard.

(3) Front yard. A yard extending along the full length of a front lot line. At least one such yard shall be designated for each corner lot, and at least two such yards shall be designated for each through lot, and each through corner lot.

(r) Family day care home. A home operated by any person who receives therein for pay, children who are related to such person and whose parents or guardians are not residents in the same house, for daytime supervision, boarding and care.

(s) Nursing home. A nursing home is any institution which is maintained and operated for the purpose of providing care for non-related persons who may not be acutely ill, but who do not require skilled nursing care and related medical services.

(t) Mobile home. A movable or portable structure having no foundation other than wheels, jacks, or skirtings, designed or constructed so as to permit long-term occupancy for dwelling purposes, and arriving at the site where it is to be occupied as a complete dwelling.

(u) Mobile home park. A unit development designed and constructed to accommodate mobile homes.

(v) Mobile home space. A designated area within a mobile home park for the exclusive use of the occupants of a single home.

(w) Family. One person, or two or more persons related by blood, marriage or adoption, living together as an independent housekeeping unit, together with incidental domestic servants and temporary non-paying guests.

(x) Home occupation. An accessory activity of a nonresidential nature, which is performed within a living unit, or within a garage accessory thereto and reserved therefor by an occupant of the living unit and which is customarily incidental to the residential use of the living unit and which requires no equipment except that which generally would be used for purely domestic or household purposes. (ord. 39, sec. 10)

11-211. Nonconforming uses. Any lawful building, structure, or use existing on the effective date of this ordinance, or whenever a district shall be changed by amendment thereto, may be continued, although such building, structure or use does not conform to the regulations of the district in which it is located.

No building or structure, or the nonconforming use of a building, structure, or land shall hereafter be extended or altered, except for incidental alternations, unless such extension or alteration shall conform to the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of the building which were manifestly arranged or designed for such use on the effective date of this ordinance, or the enactment of subsequent amendments thereto, provided no structural alterations, except those required by law or ordinance are made therein.

Where no structural alterations are made in any building containing a nonconforming use, such use may be changed to one of a similar or higher classification, but no building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use; provided, however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

Structural alterations of a building or structure which do not conform to the provisions of this ordinance, may be made only:

- (1) If the building is made to conform to the requirements of the district in which it is located, or
- (2) If such alteration is being made in order to comply with sanitary, health, or other codes or ordinances requiring improved sanitation facilities.

No nonconforming use may be re-established where such non-conforming use has been discontinued for a period of one (1) year.

Any nonconforming building or structure damaged by fire, explosion, flood, riot, or act of God may be reconstructed and used to the same extent as before any such calamity, provided the building has not been destroyed to an extent of more than 60% of its fair market value, and provided such reconstruction takes place within twelve months of the calamity.

No junkyard which, on the effective date of this ordinance, is not permitted within the district in which it is located, shall continue as a nonconforming use for a period longer than one year from the effective date of this ordinance. After such period of time, such nonconforming use shall be automatically terminated. For the purposes of this section, a junkyard is hereby defined as the storage of junk or waste materials, including but not limited to, obsolete appliances, automobiles or automobile parts, machinery, furnishings, or equipment, or the dismantling of the same for the purpose of sale, re-sale or storage.

Any sign, violative of the provisions of section 11-209(m), installed and in use on the effective date of this ordinance shall be construed as a nonconforming sign, and the use thereof may be continued for not longer than one year from the effective date of this ordinance, after which such nonconforming sign use shall be automatically terminated, and made to comply with the general sign provisions as contained in section 11-209(m).

The keeping, feeding, or breeding of hogs or pigs in any zone district except the agricultural district is hereby declared to be a public nuisance, and such nonconforming use of property shall be automatically terminated at the end of one year from the effective date of this ordinance. Such nonconforming use of premises for the keeping, feeding, or breeding of hogs or pigs shall be strictly limited to the number of such swine on the premises at the effective date of this ordinance. It shall be unlawful for any hogs or pigs to be placed on any premises, other than in the agricultural district, from and after the effective date of this ordinance, it being the legislative intent of the City Commission of Lakewood that there shall be no enlargement or extension of such nonconforming activity in any manner whatsoever from and after the effective date of this ordinance. (ord. 39, sec. 11)

11-212. Board of zoning appeals. (a) Creation. There is hereby created an administrative board, to be designated "the board of zoning appeals," which board shall consist of three members to be elected or appointed by the city commission and who shall have been bona fide residents of the city for not less than three years immediately prior to their election or appointment. No person holding any public office or position in the government of the city shall be eligible for membership on such board.

(b) Term of office, removal, vacancies. The members of the board shall serve for a three year term, or until their respective successors are appointed and qualified, except that the board first appointed or elected shall serve respectively for the terms following: one for one year, one for two years, and one for three years. Thereafter, a member of the board shall be elected or appointed for a term of three years, in the manner hereinabove provided at the expiration of the term of each member. All members of the board shall serve without compensation, and may be removed by the mayor for continued absence or other just causes. Any member, being so removed, shall be provided, upon his request, a public hearing on the removal decision before the city commission. Vacancies on said board shall be filled for the unexpired term of those members whose position has become vacant, in the manner herein provided for the election or appointment of such member.

(c) Selection of officers. Upon appointment, the board shall elect from its members its own chairman, and vice-chairman, who shall serve for one year. The city clerk shall act as secretary of said board and shall be the custodian of all records of its actions and decisions.

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

(e) Meetings. Regular sessions of the board shall be held each month, on the first Thursday thereof, at 8:00 p.m. Special meetings may be held at the call of the chairman or on the request of two members, provided that notice of any special meeting shall be given to every member at least twenty-four hours before the time set, except that the announcement of a special session at any meeting at which a quorum is present shall be sufficient notice of such meeting.

(f) Board rules. The board shall have the right to adopt rules of procedure, consistent with the provisions of this ordinance and sections 13-7-201 through 13-7-210 of the Tennessee Code Annotated, as amended.

(g) Procedure before the board. All hearing sessions shall be open to the public. The presence of two members shall constitute a quorum and the concurring vote of at least two members shall be necessary to deny or grant any application before the board. In the event no more than two members are present and participating in any hearing, a failure to receive two concurring votes within thirty (30) days shall be deemed a denial. If two members fail to concur in the vote within thirty (30) days of the public hearing then the application shall again be advertised and set for public hearing at the next regular meeting at which said application shall be eligible. No action shall be taken by the board on any case until after a public hearing and notice thereof. Proper notice of a hearing before the board shall be a legal notice published in a newspaper of general circulation in the area comprising the City of Lakewood at least ten days before the date set for the public hearing and a written notice of the hearing of an appeal shall be sent to the appellant and all directly affected property owners at least ten days prior to the hearing of an appeal. The notice to the appellant shall be sent by registered mail. No appeal shall be considered and heard by the board within less than fifteen days after the filing of such appeal.

Appeals to the board shall be taken within thirty days after the date of the decision of the city manager by filing with the board of zoning appeals a written notice of appeal, specifying the grounds thereof. No appeal shall be presented to the board for consideration except upon an official form provided by the board. Each appeal shall be accompanied by cash or certified check, payable to the City of Lakewood, in the amount of thirty-five and no/100 dollars (\$35.00), which amount shall be used to defray the cost of publication and processing said appeal.

Each appeal shall be numbered serially, shall be dated, and shall be filed in proper form and placed upon the calendar of the board by the secretary. The calendar numbers shall begin anew on January 1st in each year, and shall be hyphenated with the year in which the appeal is filed. Appeals shall be assigned

for hearing in the order in which they appear on the calendar, except that appeals may be advanced for hearing by order of the board, upon good cause being shown. The board shall keep minutes of its proceedings, showing the vote of each member on every question, or if absent or failing to vote, indicating such fact, and it shall also keep records of its other official actions. At the public hearing before the board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption by the other. Every person before the board shall abide by the order and direction of the chairman.

(h) Powers of the board. The board of zoning appeals is hereby vested with the following powers:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the city manager in carrying out the enforcement of this ordinance, whereby it is alleged in writing that the city manager is in error or has acted in an arbitrary manner.

(2) To hear and decide all questions brought before it by appeal from the refusal, granting or revocation of permits by the city manager under the provisions of this ordinance.

(3) To hear and decide all matters referred to it on which it is required to act under this ordinance.

(4) To, within its powers, reverse or affirm, wholly or in part, or modify, the order, requirement, decision or determination of the city manager as in its opinion ought to be done under the circumstances, and to that end, the board shall have all the powers of the city manager, and it may issue or direct the issuance of a permit.

(5) To permit exceptions to and variations from the terms of this ordinance under the following conditions.

Permit the extension of an existing or proposed building or use into a more restricted district under such conditions as will safeguard the character of the more restricted district.

Grant a permit in any agricultural, residence or commercial district for a temporary building or use incidental to the residential or commercial development, such permit to be issued for not more than two years.

Where by reason of exceptional narrowness, shallowness or shape of a specified parcel of property at the time of the enactment of this ordinance, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such parcel of property the strict application of these regulations would result in peculiar and exceptional practical difficulty or undue hardship upon the owner of such property, the board of zoning appeals shall have the power in a specific case to

vary from such strict application so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and this zoning ordinance.

No variance may be granted that would authorize activities in a district other than those permitted by the terms of this ordinance. Financial returns only shall not be considered as a basis for the granting of a variance. Alleged difficulty or hardship may not constitute grounds for a variance where such difficulty or hardship was created by any act of an appellant or other person having an interest in the property after the effective date of this ordinance. No variance may be granted that would be detrimental to the public welfare or injurious to other property or improvements in the area where the subject property is located, nor shall any variance be granted that might impair an adequate supply of light and air to adjacent property, increase congestion in the public streets, increase the danger of fire, or endanger the public safety.

To grant a permit by way of special exception for the erection and use of a multi-family dwelling or apartment building in any residence district, under the following terms and conditions:

Not more than six (6) family living units shall be constructed upon any lot, which lot shall have a minimum area of twenty thousand square feet for each three or four-family dwelling, to be increased twenty-five hundred square feet for each additional dwelling unit, but not to exceed in any case six family units.

Every such multi-family dwelling shall have minimum side yards, a rear yard and a front yard of at least twenty feet for side yards, forty feet for rear yards and fifty feet for front yards, all of which dimensions shall be increased by ten feet for each story by which such multi-family dwelling may exceed the height limitations for dwellings in a residence district.

The board of zoning appeals, in addition to the above requirements, shall find that such proposed use and/or buildings will not impair an adequate supply of light and air to adjacent property, or materially increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the community, and further provided, the site plans and architectural plans for the layout of the lot and the design of the buildings are first approved by the

planning commission, taking into account the foregoing considerations and requirements and the adequacy and safety of ingress and egress to and from the site, and the appropriate landscaped screening from adjacent properties in the side and rear yard areas.

(6) Right of entry upon land. The board, and its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys, and place or remove public notices in connection with any appeal case.

(i) Final disposition of appeal. The final disposition of any appeal to the board of zoning appeals shall be in the form of a resolution, which shall affirm, reverse, or modify the refusal of a permit by, or any order or decision of the city manager in connection therewith. The board may include in any such resolution any condition or conditions upon which its actions or decisions may be predicated in order to carry out the purpose and intent of this ordinance. Any condition imposed must be reasonable under all the circumstances of the case. All resolutions adopted in the determination of any appeal case shall be copied into the minutes of the board and be approved by the signature of the chairman at the next succeeding meeting of the board following the date of decision.

(j) Rehearings. No rehearing of any decision made by the board shall be held except on a motion to reconsider the vote, or on a request for a rehearing. If any motion to reconsider and grant a rehearing receives two affirmative votes, the rehearing shall be allowed on such conditions as the board may in each case stipulate. No request for a rehearing may be entertained unless new evidence is submitted, which could not reasonably have been presented at the previous hearing. If a request for a rehearing is granted, the case shall be placed upon the calendar. In all cases the request for rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data, diagrams, and exhibits, if any. If the rehearing is granted, the person requesting it shall be notified to appear before the board on a date set by it. (ord. 39, sec. 12, as amended by ord. 91)

11-213. Enforcement and building permits. The city manager shall be responsible for the enforcement of the provisions of this ordinance, and for the issuance of all building permits that comply with the terms thereof.

No permit shall be issued for the excavation, construction or alteration of any building, structure, or part thereof, where the plans, specifications, or intended use indicate that the building or use would not conform in all respects with the provisions of this ordinance. All applications for building permits shall be accompanied by a plat, drawn to scale, showing the actual dimensions of the parcel of land to be built upon, the size of the building to be erected, the position of the building upon the lot and such other information as may be deemed necessary to provide for the enforcement of the provisions of this ordinance.

A record of all building permits issued or refused shall be kept in the office of the city manager, numbered serially, and shall be furnished on request to any person having a proprietary or tenancy interest in the affected property.

Nothing in this section shall be construed to require the issuance of a building permit to the owner of any residential or business property who desires to make minor repairs to the same, provided such minor repairs are necessary for and incidental to the routine upkeep of the aforesaid premises by the owner thereof, and provided such minor repairs and work incidental thereto do not constitute annoyance to or threat of danger to the owners or tenants of adjoining property. (ord. 39, sec. 13)

11-214. Certificate of compliance. No vacant land and no building hereafter erected shall be occupied or used in whole or in part, nor shall any owner or tenant of any land or building hereafter change the use classification or enlarge the use in any building or on any premises without a certificate of compliance from the city manager, which certificate shall state that the use of the building or premises complies with the provisions of this ordinance.

An application for a certificate of compliance shall be made with the application for a building permit, or may be directly applied for where no building permit is necessary. The certificate of compliance shall be issued or refused in writing within five (5) days after the city manager has been notified in writing that the building or premises is ready for occupancy. A record of all such certificates of compliance shall be kept in the office of the city manager, numbered serially, and shall be furnished on request to any person having a proprietary or tenancy interest in the affected property. (ord. 39, sec. 14)

11-215. Penalty provisions. Any person who shall violate any provision of this ordinance shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine as provided in the general penalty clause for this municipal code, in the way and manner provided by section 6-21-502 and 13-7-208 of the Tennessee Code Annotated, as amended. In addition to the penalties provided herein, for the violation of the provisions of this ordinance, the city attorney shall, upon the direction of a majority of the members of the city commission, institute injunction, mandamus, or other appropriate proceedings under the provisions of section 13-7-208 of the Tennessee Code Annotated, for the further and more effective enforcement of the provisions of this ordinance. (ord. 39, sec. 15)

11-216. Amendments. Any person or persons seeking amendments to this ordinance may proceed by filing a petition with the office of the city planning commission, which office shall give immediate notice thereof to the city commission.

The city clerk, upon the receipt of any ordinance or ordinances amending this ordinance, shall immediately transmit a copy to the city planning commission, and no such amendatory ordinance shall become effective unless it shall have first been submitted to the planning commission. The planning commission upon receiving such amendatory ordinance or ordinances shall promptly consider same and, prior to the time such amendatory ordinance will come on to be heard before the city commission on second reading and in public hearing, shall notify the city commission of its approval or disapproval of same in writing.

Immediately upon receipt of a communication from the planning commission, the city clerk shall advertise the amendatory ordinance for public hearing, which advertisement shall include the time and place set for hearing by the city commission thereon, and which notice shall be published in a newspaper of general circulation in the City of Lakewood at least 15 days before such public hearing.

The city commission shall have before it for consideration the recommendation of the planning commission before any action is taken on second reading on any ordinance amending this ordinance. The city commission may concur in or reject the recommendation of the planning commission, and should the city commission amend the ordinance on second reading, the amendment must be referred to the planning commission for its consideration, and the planning commission's recommendation shall be received before final passage by the city commission.

If at the public hearing as above provided for, a protest be presented in writing which protest was in the hands of the city clerk not later than ten days from the date of the last publication of the above required notice, duly signed and acknowledged by the owners of 20 percent of more of all frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately in the rear thereof, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, such amendment, supplement, or change shall not be passed except by the favorable vote of two-thirds of all the members of the city commission. (ord. 39, sec. 16)