

A MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, TENNESSEE was held in the Commission Chambers of the Municipal and Safety Building, 601 East Main Street, Johnson City, Tennessee on Thursday, September 18, 2014.

PRESENT: Mayor Ralph Van Brocklin, Vice-Mayor Clayton Stout, Commissioners Jeff Banyas, Jenny Brock and David Tomita, Pete Peterson, City Manager, and Janet Jennings, City Recorder.

Mayor Ralph Van Brocklin called the meeting to order at 6:01 p.m.

At this time, Rector Hal Hutchinson, St. John's Episcopal Church, gave the invocation, which was followed by the pledge of allegiance.

Upon motion by Vice-Mayor Clayton Stout, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the minutes of the regularly scheduled City Commission Meeting held on Thursday, September 4, 2014, be and the same are hereby approved.

At this time, Mayor Ralph Van Brocklin presented a proclamation recognizing the Tweetsie Trail Committee. Stephen Darden, Clayton Stout, Fred Alsop, Ronald Cameron, Ray Flynn, Dan Reese and Mike Medford were present to accept. Dan Schumaier, Chairman, and Grant Summers were not present.

- Whereas* the Tweetsie Trail was imagined and championed by City officials and citizens for nearly a decade before the first section officially opened on time and under budget during Labor Day weekend 2014; and
- Whereas* the first phase of the project, a 4.3-mile stretch from Alabama Street to Lions Park in Elizabethton, was celebrated by more than 2,500 walkers, runners and bicyclists during the inaugural Tweetsie Trail Trek; and
- Whereas* the successful opening of the Tweetsie Trail is attributable to the hard work and commitment of numerous private donors, City staff members, and the Tweetsie Trail Committee; and
- Whereas* led by Dr. Dan Schumaier, the Tweetsie Trail Committee has worked diligently to research, envision, prepare for, and develop what will be, upon completion of all 10 miles, the longest rails-to-trails project in the state of Tennessee.

Now, Therefore, I, Ralph J. Van Brocklin, mayor of the City of Johnson City and on behalf of the Board of Commissioners, do hereby express our deepest appreciation to the Tweetsie Trail Committee for the incredible amount of work, time and dedication they have put into making the idea of the Tweetsie Trail become a reality. Our citizens and those in our neighboring community of Elizabethton are enjoying a better quality of life today because of each of you.

In Witness Whereof, I have
hereunto set my hand and caused the Official Seal
of the City of Johnson City, Tennessee, to be
affixed this 18th day of September 2014.

/s/ Ralph J. Van Brocklin

Ralph J. Van Brocklin, Mayor

At this time, Mayor Ralph Van Brocklin opened the public input session. No one spoke.

Upon motion by Commissioner David Tomita, seconded by Vice-Mayor Clayton Stout, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a beer license for Santiago Kinil, d/b/a Los Jalapenos, 6681 Bristol Highway, Suite 70, Piney Flats, Tennessee, be and the same is hereby approved. Santiago Kinil, applicant, was present.

Upon motion by Commissioner David Tomita, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the re-appointment of Lynda Wexler and the appointments of Jose Castillo, Cher Cornett, Kathleen Moore and Jennifer Salyer to the Public Art Committee, be and the same are hereby approved.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner David Tomita, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a street closing on Saturday, May 2, 2015, from 7:00 a.m. until Noon, as requested by Ani Boyd for the Downtown Dash and Girls on the Run 5K, be and the same is hereby approved. Ani Boyd was present.

Upon motion by Commissioner Jeff Banyas, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a street closing on Sunday, October 26, 2014, from 3:00 p.m. to 5:00 p.m., as requested by Cara Ledbetter for the American Cancer Society's Making Strides against Breast Cancer Walk, be and the same is hereby approved. Cara Ledbetter was present.

Upon motion by Vice-Mayor Clayton Stout, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Jenny Brock voted nay.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That **deferral** of Consent Agenda Item A.5., Crown Castle Agreement for co-location of cell phone antennas on the Master's Knob Reservoir Site, for up to thirty (30) days, to allow staff additional time to provide comparative lease rates, be and the same is hereby approved.

Upon motion by Commissioner Jeff Banyas, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by four ayes. Vice-Mayor Clayton Stout voted nay.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the remainder of the Consent Agenda for September 18, 2014, be and the same is hereby approved.

CONSENT AGENDA:

A. GENERAL:

i. Fire Department

Consider acceptance of the Fire Fighter Grant contract

ii. Police

Consider acceptance of award granted under the Justice Assistance Grant (JAG) Program. The allocated award amount is \$21,849

iii. Legal

Consider an Agreement with Outdoor Art-Sculpture, LLC for the City's purchase of artwork for the entrance of Founder's Park. The total payment to the artists would be \$48,000

iv. Development Services

Review and Approval of Release of Trust Deeds and Restrictive Covenants between Fairview Housing Management Corporation and the City on Downtown Apartments Property

v. Water & Sewer Services

Authorization for Mayor to execute Crown Castle Agreement for co-location of cell phone antennas on the Masters Knob Reservoir Site

vi. **Public Works Department**

Consider Change Orders #3 and #4 for the Founders Park Project. The change orders result in a net deduction of \$112,477

vii. **Public Works Department**

Consider relocation expenses for residents of Tract 7 on the Indian Ridge Project. Maximum compensation is \$7,750

viii. **Public Works Department**

Consider relocation expenses for residents of Tract 4 on the Indian Ridge Project. Maximum compensation is \$7,250

ix. **MTPO**

Consider acceptance of the Memorandum of Understanding for Federal Lands Access Program funding to assist with construction of the Veterans Affairs Hospital Connector

B. INVOICES:

- i. Arthur J. Gallagher & Co. \$115,672.00
 Risk Management
 Workers' Compensation Self-Insurance Program -
 Excess Workers' Compensation Coverage
 Funding Source: Budgeted Expense
- ii. Preston Construction \$29,828.64
 Johnson City Schools
 Science Hill High School Sidewalk Canopies
 Funding Source: Washington County Funds
- iii. Thomas Construction Company \$25,053.00
 Public Works Department ~ **FINAL PAYMENT**
 Founders Park Project
 Funding Source: Stormwater Fund

C. **BIDS:**

i. ITB #5851

JCI Jones Chemical\$37,700.00

Water & Sewer Services

Sulfur Dioxide

Funding Source: Budgeted Expense

**TABULATION OF BIDS
CITY OF JOHNSON CITY, TENNESSEE
SEPTEMBER 3, 2014
BID #5851 – WATER/SEWER
SULFUR DIOXIDE**

	1-Ton Cylinders <u>130,000 LBS</u> (per lb)
Brenntag Mid-South	.32
Allied Universal	.4381
JCI Jones Chemical	<u>.29</u>
DPC Enterprises	.34

DECLINE FROM: GEO Specialty, American Development

NO RESPONSE FROM: Altivia Corp, Kemiron Co., Jefferson Sales , Key Chemical, Gulbrandsen Technologies, Hill Man., State Industrial, Pool & Electrical, Allied Universal, The Dumont Co., PICA USA, Momar Inc, Scientific Sales, S4 Water Sales, Chemtrade Chemicals, HD Supply

RECOMMEND ACCEPTANCE OF LOW BID, CIRCLED ABOVE. ESTIMATED ANNUAL EXPENDITURE \$ 37,700, BASED ON UNIT COSTS. THREE YEAR CONTRACT, RENEWABLE ANNUALLY.

II. ITB #5854

Various Vendors\$98,802.87

Water & Sewer Services

Water Distribution Items

Funding Source: Budgeted Expense

TABULATION OF BIDS
CITY OF JOHNSON CITY, TENNESSEE
WATER DISTRIBUTION ITEMS / #5854
September 2, 2014 / 2:30 PM

Item Number	Item	Qty	General Utility	Fortnite Waterworks	Ferguson	Consolidated Pipe	Walter A Wood	G & C Supply	Southern Pipe	New England Fire	Empire Pipe & Supply
Gripper Gaskets											
1	6"	25	73.31	52.35	53.61	55.00	61.10	51.75	x	x	57.84
2	8"	50	98.32	65.95	71.64	68.00	82.20	68.15	x	x	77.94
Meter Boxes											
3	12" Deep Square Plastic Meter Box w/ CLK	400	18.75	x	15.15	25.00	16.13	23.50	15.26	x	15.15
4	6" risers for 12" deep square plastic meter b	125	x	x	6.37	18.00	10.15	18.50	7.63	x	11.65
5	Jumbo Meter Box	40	x	185.18	100.00	98.00	120.00	32.50*	92.67	x	45.97
Full Circle Repair Clamps											
6	2" x 12.5" range 2.35"-2.63"	200	81.25	75.05	39.33	55.00	55.00	45.20	39.54	x	x
7	6" x 12.5" range 6.54"-7.24"	100	122.00	131.40	68.87	82.00	82.60	79.15	69.22	x	x
8	2" x 3/4" CC Brass Tap Service Saddles	50	16.50	21.49	14.13	16.00	15.65	15.33	14.25	x	x
Threaded Brass Fittings											
9	2" Brass Union	50	23.50	36.68	29.92	35.00	35.00	32.50	29.25	x	x
10	2" Brass Tee	100	31.30	27.53	22.46	28.00	26.30	24.40	22.40	x	x
11	3/4" X 1/4" Brass Bushing	100	2.25	2.57	2.10	3.25	2.46	2.35	2.16	x	x
12	3/4" x 1/2" brass reducer	100	3.30	3.88	3.16	2.85	2.04	3.53	3.17	x	x
13	1" x 3/4" brass reducer	100	5.50	6.45	5.26	3.85	2.85	5.86	5.22	x	x
14	2" x 3/4" brass reducer	100	18.80	22.02	17.96	13.25	11.98	19.52	18.41	x	x
15	2" x 4" brass nipple	50	10.80	10.89	10.68	12.35	12.35	12.92	10.30	x	x
16	2" x 6" brass nipple	50	16.00	16.08	16.18	18.25	18.23	18.59	15.00	x	x
17	2" x 8" brass nipple	50	21.30	21.45	21.58	24.00	24.31	24.80	20.15	x	x
18	2" x 10" brass nipple	100	26.35	x	26.74	32.00	30.11	30.71	25.00	x	x
19	2" x 12" brass nipple	150	31.50	31.70	31.89	35.00	35.91	35.98	29.20	x	x
Fabricated tapping sleeves for DI Pipe											
20	12" X 6"	4	387.00	391.40	267.97	495.00	265.00	345.50	267.98	x	x
21	12" X 8"	4	465.00	466.51	613.65	585.00	336.50	405.50	313.65	x	x
22	16" X 6"	4	409.00	703.28	322.39	585.00	295.00	416.80	322.39	x	x
23	1/2" reed drill tap	5	142.50	129.95	149.80	135.00	120.00	136.95	120.10	x	x
24	1" reed drill tap	5	188.00	172.53	195.00	185.00	159.00	181.80	159.33	x	x
25	1-7/8" Mueller bit	5	469.00	374.83	x	465.00	x	456.00	x	x	x
Copper Water Service Tubing											
26	3/4"	8,000	3.25	3.13	2.93	3.15	3.12	2.92	3.05	2.89	2.75
27	1"	5,000	4.25	4.25	3.84	4.10	4.05	3.92	3.98	3.55	3.58
ASTM D3034/SDR35 PVC Sewer Pipe											
28	6" SDR 35	2,100	1.98	2.38	1.85	1.74	1.87	1.86	1.75	1.59	1.98
29	8" SDR 35	2,100	3.35	4.26	3.33	3.09	3.30	3.33	3.14	1.67	3.34
30	8" x 8" x 6" Tee	50	27.80	29.66	26.00	35.00	24.63	32.82	25.70	x	31.94

TABLATION OF BIDS
 CITY OF JOHNSON CITY, TENNESSEE
 WATER DISTRIBUTION ITEMS / #5654
 September 2, 2014 / 2:30 PM

31	6" Cap	200	6.20	6.68	5.75	8.25	5.44	6.85	5.74	x	6.28
32	8" Cap	75	16.70	18.05	15.84	18.25	14.70	18.45	13.55	x	19.98
33	8" 90 Degree Bend Fittings	3	311.60	305.00	298.00	35.00*	249.00	634.00	222.74	x	245.00
***Fogusam - items 3&4 - all or none, item 2& 27 1.175.00 1,874.25 23,570.35 3,400.00 8,728.00 1,293.75 12,276.72 28,146.00											
****no bid - unacceptable item											
Decline: Hipsea, Equipment Sales & Service, Mueller											
No Response: HD Supply, Noland Co, Service Pumps & Supply, Jefferson Sales, Johnsons Supply, Mueller Co, Pumphouse, A.Y. McConell, Const/Kaiser Pipe, Hayes Pipe, Halbrook, Industrial Plastics, Power/Saal Piping,											
Air & Hydraulic, Coleman, Mulvaney Reformat, John Deere, Southern Pipe, American Air & Water, TEC Utility, Greenstream, Eco-Fusion/Dur, Modern Supply, WESCO, Durcan Mechanical, Prostate Supply, American Mechanical,											
Applied Industrial Tech, Molmox,											
RECOMMEND ACCEPTANCE OF LOWEST ACCEPTABLE BIDS, CIRCLED ABOVE.											
TOTAL: \$ 98,802.87											

- i. ITB #5859
 - Beaman Automotive & Golden Circle Ford . . . \$139,087.00
 - Police Department
 - Sedans & Police SUV
 - Funding Source: Drug Fund

TABULATION OF BIDS
CITY OF JOHNSON CITY, TENNESSEE
SEPTEMBER 3, 2014
ITB #5859 SEDANS POLICE INTERCEPTOR UTILITY VEHICLE -POLICE

	Hybrid Sedan (4/ea)	Optional (17" wheels)	Utility Vehicle (1/ea)	Spotlight
Golden Circle	x	x	36,192.00	179.00
Wade Ford	x	x	36,649.00	x
Beaman Automotive	25,679.00	2,116.00	36,236.00	210.00
Mid-Tenn Ford	x	x	37,500.00	x
x= no bid				
Decline: Ford of Murfreesboro, Auto World, Magic City Ford, West Chevrolet,				
No Response: Gossett Motor, Ramey, Empire Ford, Mid-State Equip, Reeder Chevrolet, Friendship Ford, Bill Gatton, JC Toyota, Sam Swope, Chaparral, Ted Russell, Stan McNabb, Randy Marion, Courtesy Chevrolet, Parks Chevrolet, JC Honda, McNelly Whaley, Acme Auto Leasing, Whiteside Chevrolet, Champion Chevrolet, LaPrade Government Sales, Jacky Jones, SoundOff Signal, Modern Chevrolet, Long of Chattanooga, Legacy Ford, Nelson Auto, Rick Hendrick Chevrolet,				
RECOMMEND ACCEPTANCE OF LOW BIDS, CIRCLED ABOVE. TOTAL PURCHASE: \$ 139,087.				

B. PURCHASES:

- i. Amplify \$27,915.00
 - Johnson City Schools
 - Software Renewal
 - Funding Source: General Purpose School Funds

C. PROPOSALS

- i. RFP #5853
 - John Barker d/b/a Cooking to You
 - Food Concession Services
 - Parks & Recreation Department
 - Funding Source: Budgeted Expense

At this time, a public hearing was held regarding Ordinance No. 4562-14. No one spoke for or against this item.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by four ayes. Vice-Mayor Clayton Stout was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That continuance of the public hearing and **deferral** of the **first reading** of **Ordinance No. 4562-14**, "AN ORDINANCE TO AMEND THE FISCAL YEAR 2015 GENERAL PURPOSE SCHOOL FUND BUDGET," be and the same is hereby approved.

At this time, a public hearing was held regarding Ordinance No. 4560-14. No one spoke for or against this item.

Upon motion by Vice-Mayor Clayton Stout, seconded by Commissioner Jenny Brock, **Ordinance No. 4560-14**, "AN ORDINANCE TO ANNEX PROPERTY KNOWN AS THE HIGHLAND PARC PHASE 5 ANNEXATION AND TO ZONE SAID PROPERTY R-2A (LOW DENSITY RESIDENTIAL)," was **passed on second reading**. The motion **carried** by four ayes. Commissioner Jeff Banyas was absent from the Chambers. There were no nay votes.

At this time, a public hearing was held regarding the Plan of Services for the Highland Parc, Phase 5 Annexation. No one spoke for or against this item.

Upon motion by Vice-Mayor Clayton Stout, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the Plan of Services for the Highland Parc, Phase 5 Annexation, be and the same is hereby approved.

At this time, a public hearing was held regarding Ordinance No. 4561-14. No one spoke for or against this item.

Upon motion by Commissioner Jeff Banyas, seconded by Commissioner Jenny Brock, **Ordinance No. 4561-14**, "AN ORDINANCE TO REZONE 136, 150, 164, 169, 173 & 181 MCCLAIN COURT FROM R-2 (LOW DENSITY RESIDENTIAL) TO A-1 (GENERAL AGRICULTURAL)," was **passed on second reading**. The motion **carried** by five ayes. There were no nay votes.

Upon motion by Commissioner Jeff Banyas, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the Concept Plan for the rezoning from R-2 (Low Density Residential) to A-1 (General Agricultural) for properties located at 136, 150, 164, 169, 173 & 181 McClain Court, be and the same is hereby approved.

Upon motion by Commissioner Jeff Banyas, seconded by Vice-Mayor Clayton Stout, **Ordinance No. 4541-14**, "ZONING ORDINANCE AMENDMENTS TO ARTICLE II, DEFINITION OF TERMS," was **passed on third reading**. The motion **carried** by five ayes. There were no nay votes.

ORDINANCE NO. 4541-14

AN ORDINANCE TO AMEND ARTICLE II, DEFINITION OF TERMS OF THE ZONING CODE OF THE CITY OF JOHNSON CITY.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY AS FOLLOWS:

SECTION 1. That Article II, Definition of Terms of the Zoning Code of the City of Johnson City, Tennessee be and the same is hereby amended and modified as follows:

Amend Article II Definitions of terms to read as follows:

**ARTICLE II.
DEFINITION OF TERMS USED IN THE CODE**

Except as specifically defined herein, all words used in the Code have their customary dictionary definition to give this Ordinance it's most reasonable application given its stated purpose and objectives. For the purpose of this Code, certain words or terms used herein shall be defined as follows: words used in the present tense include the future tense; words used in the singular number include the plural, and words used in the plural include the singular; the word "person" includes a firm, co-partnership, company, organization, trust, association, corporation, as well as an individual; the word "lot" includes the word "plot" or "parcel", and the word "building" includes the word "structure".

The word "shall" is always mandatory; the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended", arranged, or designed to be used or occupied.

ACCESSORY BUILDING, HEIGHT OF: The vertical distance measured from the average ground elevation to the highest point of the roof.

ACCESSORY STRUCTURE: (This definition is for the exclusive purpose of Article VIII, Floodplain Regulations). Any structure shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following: accessory structures shall not be used for human habitation; accessory structures shall be designed to have low flood damage potential; accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters; accessory structures shall be firmly

anchored to prevent flotation which may result in damage to other structures; and service facilities such as electrical and heating equipment shall be elevated or flood-proofed.

ACCESSORY STRUCTURE OR USE: A detached structure or use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ACT: The statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

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 by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

ADULT DAY-CARE CENTER: A place operated by a person, society, agency, corporation, institution, or other group that receives payment for the care of persons over eighteen (18) years of age for less than twenty-four (24) hours per day in an approved community-based facility. The adult day-care center shall provide a structured program of personalized care for adults who are not capable of full independent living as a result of physical disability, developmental disabilities, emotional impairment, or frailty resulting from advanced age.

ADULT-ORIENTED BUSINESSES SHALL INCLUDE:

- A. "Adult arcade" means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slide or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- B. "Adult bookstore" means an establishment that restricts or purports to restrict admission to adults or to any class of adults and which has as a substantial portion of its stock-in-trade and offers for sale for any form of consideration any one or more of the following:
- 1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", or
 - 2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."
- C. "Adult cabaret" means a nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

- D. "Adult motel" means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- E. "Adult motion picture theater" means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- F. "Adult theater" means a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis upon the exposure of "specified anatomical areas" or by "specified sexual activities."
- G. "Characterized by an emphasis upon" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are characterized by emphasis upon the depiction or description of 'specified sexual activities' or 'specified anatomical areas,' the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified anatomical areas" or "specified sexual activities."
- H. "Massage parlor" means an establishment where, for any form of consideration, massage, alcohol rub fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as in incidental or accessory service.
- I. "Semi-nude" means the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.
- J. "Semi-nude Model Studio" means an establishment which regularly features a person (or persons) who appears semi-nude and is provided to be observed, sketched, drawn, painted, sculptured, or photographed by other persons who pay money or any form of consideration, but shall not include a proprietary school licensed by the State of Tennessee or a college, junior college, community college, or university supported entirely or partly by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- K. "Sexual encounter establishment" means an establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in sexual therapy.

L. "Specified Anatomical Areas" means any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

M. "Specified Sexual Activity" means any of the following:

1. Human genitals in a state of sexual stimulation or arousal;
 2. Acts of human masturbation, sexual intercourse, or sodomy;
 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
 4. Flagellation or torture in the context of a sexual relationship;
 5. Masochism, erotic, or sexually-oriented torture, beating or the infliction of pain;
 6. Erotic touching, fondling, or other such contact with an animal by a human being; or
 7. Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in "1" through "6" above.
- N. "Substantial portion" means over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units of the items set forth and enumerated in the definition of "adult book store" above, specifically being the books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" or the instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".

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

ALTERNATIVE TOWER STRUCTURE: A type of monopole tower structure camouflaged to appear as a tree, clock tower, light pole, flag pole, farm silo, or similar man-made structure to conceal the presence of antennas or towers.

ANIMAL HOSPITAL: A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as an indoor kennel shall be limited to short-term boarding and medical care and shall be incidental to the hospital use.

ANGLE OF INCIDENCE: The angle at which a light ray strikes the surface, measured between the ray and a line perpendicular to the surface.

ANTENNA ARRAY: Devices such as poles, rods, panels, reflecting dishes, and whip antennas used for the transmission or reception of radio frequency signals.

APPEAL: A request for a review of the Chief Building Official's ~~local enforcement officer's~~ interpretation of any provision of this Ordinance or a request for a variance.

AREA OF SHALLOW FLOODING: A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where flood water velocity may or may not be evident. Such flooding is characterized by ponding or sheet flow.

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

AREA OF SPECIAL FLOOD HAZARD: (ALSO REFERRED TO AS A SPECIAL FLOOD HAZARD AREA - SFHA): The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A is usually refined into:

ZONE A: The special flood hazard area that is subject to being inundated by the water of the base flood. No detailed hydraulic analyses have been performed, so base flood elevations or depths are not shown on the FHBM or the FIRM.

ZONES AE AND A1-30: The special flood hazard area that is subject to inundation by the base flood. Detailed hydraulic analyses have been performed, and base flood elevations are shown on the FIRM. Zone AE is used on new and revised maps in place of Zone A1-30.

ZONE AH: The special flood hazard area that is subject to inundation by the base flood, but with shallow flooding (usually areas of ponding). Average flood water depths are between one and three feet. Base flood elevations derived from detailed hydraulic analysis are shown in this zone.

ZONE AO: The special flood hazard area that is subject to inundation by the base flood, but with shallow flooding (usually sheet flow on sloping terrain). Average flood water depths are between one (1) and three (3)

feet. Average flood depths derived from detailed hydraulic analysis are shown in this zone. For areas of alluvial fan flooding, velocities are also determined.

ZONE A99: The special flood hazard area that is subject to inundation by the base flood, and which will be protected by a federal flood protection system when construction has reached specified statutory progress toward completion. No detailed hydraulic analyses have been performed, so no base flood elevations are shown.

ZONES B, C, AND X: The special flood hazard areas which have been identified as areas of moderate or minimal hazard from the principal source of flood in the area. Specifically, the area inundated by a flood with a 0.2 percent or greater chance of being equaled or exceeded in any given year (500 YR. Flood); the area inundated by the base flood with average depths of less than one foot or with drainage basin areas of less than one square mile; and areas protected by levees from the waters of the base flood. Zone X is used on new and revised maps in place of Zones B and C.

ZONE D: The unstudied areas where flood hazards are possible but undetermined.

ARTERIAL STREET: A roadway that provides for traffic movement between areas and across portions of the city and secondarily for direct access for abutting land, as indicated on the Zoning Map of the City of Johnson City.

AUCTION HOUSE: A facility principally devoted to the temporary storage and sale of new and used goods which are sold to the highest bidder.

BAFFLE: An opaque or translucent element used to shield a light source from direct view at certain angles, to absorb or block obtrusive light, or to reflect and redirect light.

BARE LAMP: A light source with no shielding. The bare lamp of a luminaire is assumed to be the arc tube or filament in a clear lamp or the first sight of a lamp in the case of frosted lamps.

BASE FLOOD: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASEMENT: That portion of a building having its floor below ground level on all at least two (2) sides.

BEAM ANGLE: The angle between the two directions for which the intensity is 50% of the maximum intensity as measured in a plane through the nominal beam centerline. For beams that do not have rotational symmetry, the beam angle is generally given for two planes at 90°, typically the maximum and minimum angles.

BED-AND-BREAKFAST HOME: A residential unit in which between one (1) and three (3) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided. The owner shall have primary residence on the premises and the use shall be subordinate and incidental to the main residential use of the building.

BED-AND-BREAKFAST INN: A residential unit in which between one (1) and six (6) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided.

BEER SERVING/SALES ESTABLISHMENTS: Any business authorized to sell beer with an alcoholic content of not more than five (5) percent by weight, and any beverage of like alcohol content.

BICYCLE LOCKER: A totally enclosed lockable storage area for bicycles located within one-hundred (100) feet of the entrance to a building.

BICYCLE RACK: A ribbon rack able to contain a minimum of four (4) bicycles located within one hundred (100) feet of the entrance to a building.

BREAKAWAY WALL: A wall not part of the structural support of the building and which is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

BUFFER TREE: Any tree which will achieve adequate height, width, and density to provide screening between incompatible land uses. A list of acceptable buffer trees is maintained by the Johnson City Planning Department.

BUFFER YARD: A landscaped area composed of planted vegetation, including walls, fencing, bikeways, or walkways affording visual privacy and noise relief between uses of differing impact.

BUILDING: Any structure built for support having a roof supported by columns or by walls and intended for the shelter, housing, storage, or enclosure of persons, animals, or chattel (see STRUCTURE).

BUSINESS SERVICES: An establishment providing services to places of business including, but not limited to: repair and maintenance of equipment, temporary personnel services, printing and copying, cleaning, rental and leasing, credit reporting and collection, mailing and advertising and other similar services not specifically allowed as a permitted use or special exception and where the primary purpose does not involve retail trade.

CENTER LINE OF THE STREET: That line surveyed and monumented by the governing body shall be the center line of the street; or if such center line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

CHIEF BUILDING OFFICIAL: The administrator appointed to implement the provisions of this ordinance, see Article XVI, Subsection 16.1.

CITY-OWNED UTILITY TOWER: A tower structure which is accessory to the public utility use. The purpose is to provide communications to remote public utilities such as electric power substations or water/sewer pump stations. It is not for the purpose of providing cellular telephone service.

CLINIC: A building or portion of a building, other than a hospital, as herein defined, containing facilities providing outpatient medical, dental, chiropractic, optical, osteopathic diagnostic, and similar services, for humans, by physicians, dentists, and other health care specialists. The term clinic includes offices as a separate use for the above, but does not include Substance Abuse Treatment Facility, or Methadone Treatment Clinic.

COLLECTOR STREET: A street providing for traffic movement within such areas of the city and between major streets and local streets for direct access to abutting property, as indicated on the Zoning Map of the City of Johnson City.

COMMUNITY RECREATIONAL FACILITY: A recreational area (swimming pool, tennis courts, playground, or golf course) designed to serve several neighborhoods or subdivisions. No set service area is defined.

CONSTRUCTION FIELD OFFICE/REAL ESTATE OFFICE: A mobile home, travel trailer, truck trailer, and/or other movable structure used as a temporary office in conjunction with a construction project or in conjunction with the sale or rental of units within the project and only that project. At the time the use is discontinued, it shall be removed from site.

COSINE LAW: The law that the illuminance on any surface varies as the cosine of the angle of incidence (see HORIZONTAL ILLUMINANCE).

CUT-OFF ANGLE: The angle, measured up from nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

DAY-CARE CENTER: An operation or establishment ~~place operated by a person, society, agency, corporation, institution, or other group~~ licensed by the state, that receives pay for the care of five (5) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody.

DBH: Diameter Breast Height. The diameter of a tree measured four and one-half (4 1/2) feet above ground level.

DECK: An uncovered structure which exceeds thirty (30) inches in height.

DENSITY: The number of dwelling units per acre including those areas set aside for required open space, stormwater management, and public or private streets. For detached single-family units, the maximum density shall be dictated by the minimum lot size of the district.

DESIGN DEVIATION: Any adjustment, change, or modification to the standards for sidewalk construction contained in General Requirements & Standards of Design resulting from unusual or exceptional topographic, physical, or natural conditions of the site.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, drilling operations, excavation, filling, grading, paving, the removal of healthy trees over six (6) inches dbh, or **permanent** storage of equipment or materials.

DIRECT LIGHTING: Lighting by luminaires distributing 90% - 100% of the emitted light in the general direction of the surface to be illuminated.

DRIP LINE: A vertical line extending from the outer edge of the canopy of a tree to the ground.

DWELLING, MULTI-FAMILY: A building designed, constructed, or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural or load-bearing wall of at least ten (10) lineal feet with any other dwelling unit on the same floor or building level.

DWELLING, SINGLE-FAMILY: A building designed, constructed, and used for one dwelling unit.

A. DETACHED: A one-family dwelling which is completely surrounded by open spaces.

B. SEMI-DETACHED: A one-family dwelling that is connected on one side by means of a common dividing structural or load-bearing wall of at least ten (10) lineal feet to another one-family dwelling, each dwelling on its own individual lot.

C. ATTACHED: A one-family dwelling that is connected on two sides by means of a common dividing structural or load bearing wall of at least ten (10) lineal feet of two or more other one-family dwellings, or the end dwelling of a series of such dwellings, each dwelling unit on its own individual lot.

D. DWELLING GROUP, ONE-FAMILY ATTACHED: A line of one-family attached dwellings, joined at the sides by means of common structural or load bearing walls, comprising an architectural whole.

DWELLING, TWO-FAMILY OR DUPLEX: A building designed, constructed, or reconstructed and used for two dwelling units on a single lot. ~~that are connected by a common structural or load bearing wall of at least ten (10) lineal feet.~~

DWELLING UNIT: One room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental, or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for permanent residential occupancy by one family.

ELDERLY HOUSING INCLUDING: ASSISTED LIVING; CONGREGATE CARE; AND RETIREMENT HOUSING; a building, establishment, complex or distinct part thereof providing elderly congregate group housing, containing individual dwelling units which may consist of one or more bedrooms, dining area, bathing and cooking facilities, or a combination thereof, provided that 24-hour medical care and medical staffing is not required, and provided that limited medical care, meals and other services may be offered as a matter of convenience and not necessity. A Residential Home for the Aged is not a nursing home.

ELEVATED BUILDING: A non-basement building: 1) built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls and 2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Flood Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EMERGENCY FLOOD INSURANCE PROGRAM or EMERGENCY PROGRAM: The program as implemented on an emergency basis in accordance with Section 1336 of the National Flood Insurance Program. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

EMERGENCY OR TEMPORARY SHELTER: A residential facility which offers emergency shelter to persons on a temporary basis.

EROSION: The process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

EXCEPTION: A waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

EXISTING CONSTRUCTION: Any structure for which the start of construction commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

EXISTING STRUCTURES: see EXISTING CONSTRUCTION.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of

facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

EXTERIOR LIGHTING FIXTURE: An electrically-powered illuminating device containing a light source in excess of 50 watts per fixture (except for incandescent light sources in excess of 160 watts per fixture), which is temporarily or permanently installed outdoors, including, but not limited to, search, spot, flood, and area lighting.

FAMILY: One or more related persons or a group of not more than three (3) persons who are mutually unrelated by blood, marriage, legal adoption, or legal guardianship. In multi-family dwellings in the R-6 district, the number of unrelated persons may increase to four (4) persons provided that the allowable density is reduced to 18.75 units per acre. Domestic workers employed on the premises are not counted as part of the family.

FARM ANIMAL: Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education, or recreation such as but is not limited to: horses, cattle, sheep, goats, hogs, rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks, pigeons, other birds, and bees.

FIELD ANGLE: The angle between the two directions for which the intensity is 10% of the maximum intensity measured in a plane through the nominal beam centerline. For beams without rotational symmetry, the field angle is generally given for two planes at 90°, typically the maximum and minimum angles.

500 - YEAR FLOOD: The term 500-Year Flood does not refer to a flood that occurs once every five hundred (500) years, but refers to a flood level with a 0.20 percent or greater chance of being equaled or exceeded in any given year.

FLOOD or FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION DETERMINATION: A determination by the FEMA Administrator or consultant work approved by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one (1) percent or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community, issued by the FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the FEMA has delineated both the areas of special flood hazard and the risk premium flood zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the FEMA, evaluating flood hazards and containing flood profiles the water surface elevation of the base flood.

FLOODPLAIN or FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source.

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

FLOOD-PROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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

FLOOD-RELATED EROSION AREA or FLOOD-RELATED EROSION PRONE AREA: A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

FLOOD-RELATED EROSION AREA MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.

FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot above the Base Flood Elevation.

FLOOR: The top of the lowest interior surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. Except for the purposes of the Flood Regulations, the term does not include the floor of a garage used solely for parking vehicles.

FLUSH-MOUNTED OR RECESSED LUMINAIRE: A luminaire, which is mounted above the ceiling (or behind a wall or other surface) with the opening of the luminaire level with the surface.

FOOTCANDLE: A unit of illuminance, equal to 1 lumen/ft², abbreviated as fc.

FRATERNAL ORGANIZATION: A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings and formal written membership requirements excluding college related fraternities or sororities.

FRATERNITY OR SORORITY HOUSE: A building rented, occupied, or owned by a general or social chapter of some regularly organized college fraternity or sorority, or by or on its behalf by a building corporation or association composed of members of alumni thereof, and occupied by members of the local chapter of such fraternity or sorority, as a place of residence.

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

FULL CUT-OFF FIXTURE: A luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire's lowest light-emitting part in its mounted form. Also known as a fully-shielded fixture.

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

GASOLINE SERVICE STATION: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. However, uses permissible at a gasoline service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A gasoline service station is not a repair garage nor a body shop.

GLARE: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to, causing annoyance, discomfort, or loss in visual performance and visibility.

GRANDFATHERED: Describes the status accorded certain properties, uses, and activities that legally exist prior to the date of adoption of the Zoning Ordinance or amendments to the Zoning Ordinance.

GROUP HOME: A residential facility which offers a home-like environment for mentally retarded, mentally handicapped, or physically handicapped residents, on either a permanent or temporary basis and that is licensed by the appropriate state agency.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is: 1) listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3) individually listed on a state inventory of historic places; or 4) individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either: A) by an approved state program as determined by the Secretary of the Interior; or B) Directly by the Secretary of the Interior.

HOME OCCUPATION: Any business, occupation, or activity undertaken for profit within a residential structure or one accessory building that is incidental and secondary to the use of that structure as a dwelling unit. Home occupation as defined does not include telecommuting.

HORIZONTAL ILLUMINANCE: The measurement of brightness from a light source, measured in footcandles, which is taken through a light meter's sensor at a horizontal position at the surface being lighted. Horizontal illuminance measurements incorporate the inverse square law and cosine law into their readings, and can be calculated as $E=(I)(\cos \text{ angle of incidence})/d^2$. See INVERSE SQUARE LAW definition.

HOSPITAL: An institution licensed by the state health department providing primary health services and medical or surgical services to persons, primarily inpatients suffering from illness, disease, injury, and other abnormal physical or mental conditions, and including as an integral part of the institution related facilities and services such as laboratories, surgical care, testing, and outpatient and emergency services.

ILLUMINANCE: The quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, measured in footcandles.

IMPERVIOUS SURFACE: An area covered by any material or compacted in a way so that it is highly resistant to infiltration by water.

INITIAL FOOTCANDLES: the calculated or measured illumination level when a luminaire is new and is void of light-reducing elements. The difference between initial footcandle and measured footcandle levels constitutes the light loss factor.

INVERSE SQUARE LAW: The law stating that the illuminance (E) at a point on a surface varies directly with the intensity (I) of a point source, and inversely as the square of the distance (d) between the source and the point, expressed as

$E=I/d^2$ if the surface at the point is perpendicular to the direction of the incident light.

ISOFOOTCANDLE LINE OR DIAGRAM: A line plotted on any appropriate set of coordinates to show all points on a surface where the illuminance is the same. A series of such lines is called an isofootcandle diagram. For the purposes of the site plan requirements of this Code, point calculations (or measurements) of footcandle levels at intervals of thirty (30) feet or less are considered comparable.

JUNK YARDS: Any open or uncovered land on which dilapidated automobiles, machines or machine parts, scrap metal, rags, plastics, boxes, barrels, old papers, or tires, and the like are assembled for purposes of trade.

KARST SYSTEM: Irregular terrain characterized by a subsurface drainage system and consisting of solution channels, closed depressions, subterranean drainage through sinkholes, and caves.

KENNEL: The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

LANDSCAPE YARD: A landscaped area located at the perimeter of the lot along all abutting streets.

LANDSCAPED AREA: An area of landscaping planted with growing plant materials (trees, vines, shrubs, grass, flowers, and/or growing ground cover) with up to twenty-five (25) percent mulch.

LEVEE: A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

LEVEE SYSTEM: A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LIGHT LOSS FACTORS: The ratio of measured illuminance to the value that would occur if lamps operated at their (initial) rated lumen output and if no system variation or depreciation had occurred.

LIGHT TRESPASS: Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited.

LIQUOR STORE: The building or part of a building where a licensee conducts any of the business authorized by the license from the State of Tennessee to sell for off-premises consumption alcohol, spirits, liquor, wine and every other liquid containing alcohol, spirits and wine, and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five (5) percent weight or less.

LOT: A parcel of land which fronts on and has ingress and egress by means of a public or private right-of way and which is occupied or intended to be occupied by a building or groups of buildings as provided herein with the customary accessories and open spaces.

LOT AREA: The total horizontal area included within lot lines.

LOT, CORNER: A lot of which at least two (2) adjoining sides abut for 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 COVERAGE: The total percent of a parcel covered by principal and accessory buildings or structures.

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, DOUBLE FRONTAGE: A lot which runs through a block from street to street or which has two non-intersecting sides abutting on two or more streets.

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 lines bounding a lot as defined herein.

A. **LOT LINE, FRONT:** In the case of an interior lot, the line separating said lot from the street. In the case of a corner or double frontage lot, the line separating said lot from that street which is designated as the front street.

B. **LOT LINE, REAR:** The lot boundary opposite and most distance from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than thirty (30) feet long and wholly within the lot.

C. **LOT LINE, SIDE:** A side lot line is any lot boundary line not a front lot line or rear lot line.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the appropriate county registrar, or a lot legally created prior to the adoption of this Code, the description of which has been recorded.

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

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement and crawl space. An unfinished or flood resistant enclosure, including a crawl space and areas usable solely for parking of vehicles, building access, or storage is also considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Floodplain Regulations.

LUMEN: A unit of light energy used to specify the light output of sources, calculated as the rate at which light falls on one (1) square foot of surface area one (1) foot from a source of one (1) candela.

LUMINAIRE: A complete lighting fixture including one or more lamps and ballasting (when applicable) together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

MANUFACTURED HOME: A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. The following shall not be included in this definition:

- A. Travel trailers, pickup campers, motor homes, camping trailers, or other recreational vehicles.
- B. Manufactured modular housing which is designed to be set on a permanent foundation, and which meets the Standard Building Code Congress International.

MANUFACTURED HOME PARK: A parcel or tract of land under single ownership which has been planned and improved for the placement of manufactured homes for dwelling purposes; provided that all manufactured home parks existing at the time of passage of this Code not meeting the minimum requirements established in Article VI, Section 6.11, shall be considered a nonconforming use, and further provided that one manufactured home on a separate lot, shall not be considered a nonconforming manufactured home park.

MAP: The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

MEAN SEA LEVEL: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of the Floodplain Regulations, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on the Flood Insurance Rate Map are referenced.

MEDICAL CLINIC: Medical services for out-patients only.

METHADONE TREATMENT CLINIC: A licensed facility for the counseling of patients and the distribution of methadone for outpatient, non-residential purposes only.

MOUNTING HEIGHT: The vertical distance between the surface to be lighted and the center of the apparent light source of a luminaire.

NATIONAL GEODETIC VERTICAL DATUM (NGVD): As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEIGHBORHOOD CONVENIENCE CENTER: A retail store selling a limited variety of food, beverages, and sundry items; with or without motor fuel facilities; and catering primarily to motorists making quick stops, and/or neighborhood customers.

NEIGHBORHOOD RECREATIONAL FACILITY: A recreational facility (such as a swimming pool, tennis courts, or playgrounds) designed to serve a designated neighborhood or subdivision. Membership shall be limited to 200 families.

NEW CONSTRUCTION: Any structure for which the start of construction commenced on or after the effective date of the Floodplain Regulations. The term also includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the adopted date of the Floodplain Regulations and includes any subsequent improvements to such structure.

NO-BUILD LINE: A flood elevation line that delineates an area within which no development shall be allowed to occur.

NORMAL FLOW ELEVATION: The elevation of the surface of water flowing in a stream, measured when the surface of the water flowing in a stream is not elevated due to a recent rainfall or lowered by drought conditions.

NORTH AMERICAN VERTICAL DATUM (NAVD): As corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NURSING HOMES, REST HOMES, AND CONVALESCENT HOMES: a building, establishment, complex or distinct part thereof providing elderly care and housing, containing single rooms or other dwelling units which may consist of no more than bedroom and bathroom facilities, provided that 24-hour medical care and medical staffing and other services are required or provided, regardless of the ambulatory status of the residents; and, provided further that one or more regular meals is required by state law, and/or as a condition of residency. For the purpose of this ordinance these type facilities shall include short term care facilities; nursing, convalescent and rest homes, and rehabilitation centers.

OBTRUSIVE LIGHT: Light trespass which, because of quantitative, directional, or spectral context, gives rise to annoyance, discomfort, distraction, or a reduction in the ability to see essential information.

OPEN SPACE: An open space within a residential development reserved for the use of the residents of the development and their guests. Open space does not include areas within the building setbacks or areas reserved for stormwater detention.

100 YEAR FLOOD see BASE FLOOD: The term 100 Year Flood does not refer to a flood that occurs once every one hundred (100) years, but refers to a flood level with a one (1) percent or greater chance of being equaled or exceeded in any given year.

PERSONAL SERVICES: An establishment providing services to individuals such as barber and beauty shops, shoe repair, dressmaking, tailoring, and laundry and other similar services not specifically allowed as a permitted use or special exception and where the primary purpose of the business does not involve retail trade.

PERVIOUS (PERMEABLE) SURFACE: Surface which allows for the infiltration of stormwater through the surface into the ground. Such surfaces may include, but are not limited to, porous concrete, porous asphalt, and concrete pavers.

PHOTOMETER: An instrument for measuring photometric quantities such as illuminance or luminance.

POINT METHOD: A lighting design procedure for predetermining the illuminance at various locations in lighting installations, by the use of luminaire photometric data. The point method utilizes the angle of incidence and inverse square law in its calculations.

PRINCIPAL BUILDING, HEIGHT OF: The vertical distance measured from the average ground elevation to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

PRINCIPAL USE: The primary purpose or function that a lot serves or is intended to serve.

PROFESSIONAL SERVICES: An establishment providing a service by established professions such as legal services, engineering and architectural services, accounting services, and other similar services not specifically allowed as a permitted use or special exception and where the primary purpose does not involve retail trade.

PROTECTIVE SCREENING: A continuous screen composed of planted vegetation, fencing, or walls affording visual relief from areas producing adverse visual effects.

PUBLIC UTILITY FACILITIES: Public utility facilities include any public or private building or structure used for the production, storage, transmission, distribution, and recovery of communications, water, sewage, gas, energy, and other similar utilities.

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.

REGULATORY FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot above the Base Flood Elevation.

RESIDENTIAL HOMES FOR THE AGED: A home represented and held out to the general public as a home which accepts aged persons for relatively permanent, domiciliary care. A home for the aged provides room, board, and personal services to one (1) or more unrelated persons. A Residential Home for the Aged is not a nursing home.

RETAIL SALES – GENERAL: An establishment having its primary function (a minimum of 80 percent), the retail sales of any article, substance, merchandise, or commodity to the end consumer.

RETAIL SALES – SPECIALTY: Retail operations under 10,000 square feet that specialize in one type or line of merchandise including but not limited to: jewelry; bookstore; shoe store; antique store; card and gift; and similar establishment.

RETAIL SALES – BULK: An establishment engaged in the selling of goods or merchandise to the general public, other retailers, contractors, or businesses. Bulk retail involves providing services incidental to the sale of such goods generally in a warehouse setting. Bulk retail is differentiated from general retail by the following characteristic items for sale including large categorized products (e.g., lumber, appliances, household furnishing, electrical and heating fixtures and supplies, wholesale and retail nursery stock, etc.).

RIVERINE: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOMING OR BOARDING HOUSE: A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided for not more than five (5) guests with or without meals for compensation.

SHADE TREE: Any tree whose mature height is expected to exceed thirty (30) feet with an expected crown spread of thirty (30) feet or more, with a trunk that can be maintained in a clear condition (no branches) at least five (5) feet above

ground level, and is considered a shade tree in accordance with the American Standards of Nursery Stock, set forth by the American Association of Nurserymen. A list of acceptable shade trees is maintained by the Johnson City Planning Department.

SELF-SERVICE STORAGE: A building or group of buildings divided into separate compartments each with a separate exterior entrance used to meet the temporary storage needs of business and residential uses.

SHIELDED LIGHT FIXTURE: Outdoor lighting fixtures constructed so that no light rays are emitted at an angle above the horizontal plane, excluding architectural or sign floodlighting where the bare lamp is fully hidden from public view.

SINKHOLES: Shallow, bowl-like depressions found in karst terrain systems, that occur with the development of effective, underground conduit drainage.

SORORITY HOUSES: See Fraternity Houses.

SPECIAL EXCEPTION: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in this Zoning Code and only after approval has been granted by the Board of Zoning Appeals.

SPECIAL HAZARD AREA: An area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Flood Zone A, AO, A1-30, AE, A99, or AH.

SPECIMEN TREE: Any healthy tree with a diameter of eighteen (18) inches dbh or greater.

START OF CONSTRUCTION: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a

foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY: The Tennessee Department of Economic and Community Development, ~~Local Planning Assistance Office~~ is designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

STORY: That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. A basement shall be considered a story when more than one-half of its height is above the average ground elevation.

STREET: A public right-of-way set aside for public travel not less than thirty (30) feet in width which: (a) has been accepted for maintenance by the city of Johnson City; (b) has been established as a public street prior to the date of adoption of this Code; or (c) has been dedicated to the city of Johnson City for public travel by the recording of a plat of a subdivision which has been approved by the Johnson City Regional Planning Commission.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground, which includes a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

STUDENT ORIENTED HOUSING: Apartments designed for students, oriented so that each bedroom can be rented out individually with one shared living area.

SUBDIVISION SITE PLAN: A site plan required for commercial subdivisions within the B-4, B-5, and PB districts.

SUBSTANCE ABUSE TREATMENT FACILITY: A building or portion of a building, other than a clinic containing offices, facilities or designated space with the predominant, substantial, or significant purpose of providing outpatient treatment, counseling or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances. Staffing by physicians who have received a waiver or have been certified or should have received a waiver or be certified by the Substance Abuse Treatment Act of 2000 and subsequent amendments or enactments shall create a presumption that the building or portion of a building should be designated a substance abuse treatment facility.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure taking place during a 5-year period in which the cumulative costs equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. The market value of the structure should be: (1) the appraised value of the structure prior to the start of the initial repair or improvement; or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS: The repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds fifty (50) percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

TEAROOM: A small limited service restaurant with no more than 500 square feet of dining area in a residential structure. An area for outside dining may be added with seating limited to 16 patrons. Carry-out service is permitted, but not including drive-thru facilities.

TEMPORARY RECREATIONAL VEHICLE: A trailer, tent, modular unit, or other moveable prefabricated structure. No temporary recreational vehicle shall be occupied for residential purposes anywhere in the city of Johnson City and location in an RV campground site shall not exceed 90 cumulative days within a calendar year.

TEMPORARY USE: A land use or structure that is in place for only short periods of time not to exceed 90 consecutive days unless an extension is granted.

TOWER STRUCTURE: A wireless transmission facility constructed as a lattice tower with or without guy wires, as an alternative tower structure, or as a monopole tower; primarily for the purpose of supporting an antenna array; and support buildings and equipment; excluding equipment under thirty (30) feet in height used for amateur radio communication.

UNIFORMITY RATIO: Describes the maximum level of illumination in relation to the minimum level for a given area, expressed as a ratio.

VALUE-ORIENTED HOUSING: The maximum value of a single-family house shall be derived by using the Department of Housing and Urban Development's latest Low and Moderate Income Table for a family of 4 and multiplying it by 2.5.

~~VARIANCE: A variance is a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district. A variance is a relaxation of the terms of the Zoning Code, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or other extraordinary or exceptional situation or condition of a piece of property, the strict application of the provisions of this Code would result in practical difficulties to or undue hardship upon the owner of such property.~~

VERTICAL ILLUMINANCE: The measurement of brightness from a light source, measured in foot candles, which is taken through a light meter's sensor at a vertical position at a five (5) foot height for the area being lighted, used in this Code primarily for measurements of light trespass at the property line. The use of vertical illuminance measurements tend to ignore the influence of off-site sources such as street lighting.

VIOLATION: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

WAREHOUSE: A use involving a structure engaged in storage of products, supplies, and equipment, excluding self-service storage facilities.

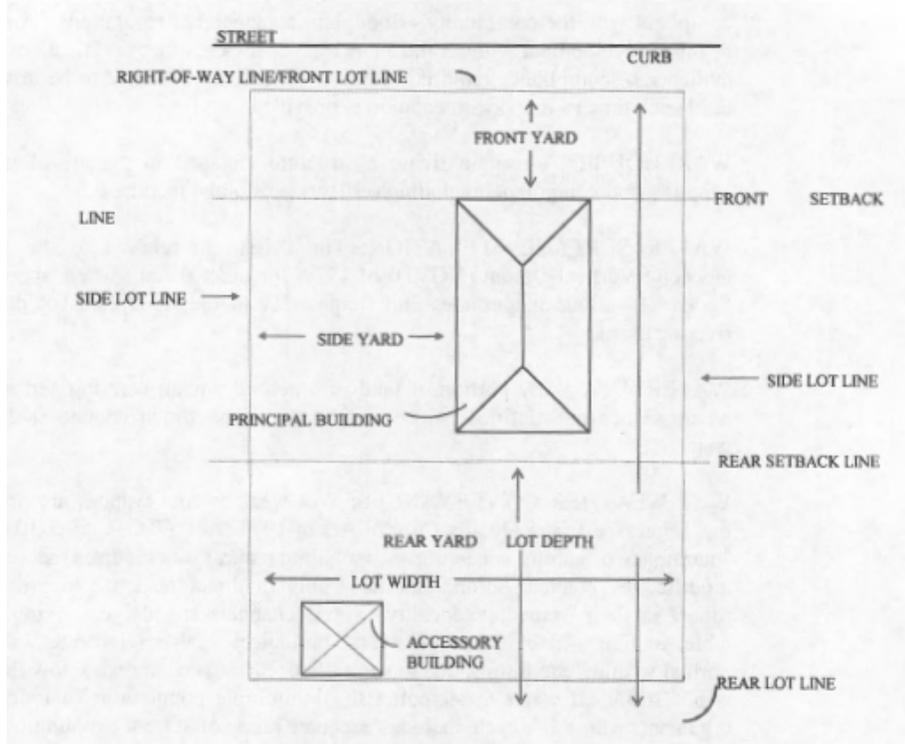
WATER SURFACE ELEVATION: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERWAY: Any portion of land of a natural stream carrying surface water having a bed and defined banks or side elevations which contain said surface water.

WET WEATHER CONVEYANCES: Wet weather conveyances are defined in the Tennessee Water Quality Control Act of 1977 (Act) (T.C.A. 69-3-103(43)) as "man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, whose channels are above the groundwater table, and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of lotic aquatic organisms whose life cycle includes adequate phase of at least two months."

YARD: A required open space that lies between the principal or accessory structure or use and the nearest lot line which is unoccupied and unobstructed from thirty (30) inches above ground level upward except as herein permitted:

- A. YARD, FRONT: The yard fronting a street extending along the front of the lot between the side lot lines.
- B. YARD, REAR: The yard extending along the rear of the lot, opposite of the front yard and between the side lot lines, excluding double frontage lots which have no rear yard.
- C. YARD, SIDE: The yard extending along the side lot lines from the front lot line to the rear lot line. A lot line not a front lot line or rear lot line shall be deemed a side lot line.



PASSED IN OPEN, PUBLIC MEETING
 ON THE FIRST READING 5/01/2014
 PASSED IN OPEN, PUBLIC MEETING
 ON THE SECOND READING 9/4/2014
 PASSED IN OPEN, PUBLIC MEETING
 ON THE THIRD READING 9/18/2014
 APPROVED AND SIGNED IN OPEN
 MEETING ON THE 18th DAY OF
September, 2014
 FOLLOWING PASSAGE ON THIRD
 READING

/s/ Ralph Van Brocklin
 MAYOR

ATTEST:
/s/ Janet Jennings
 CITY RECORDER

APPROVED AS TO FORM:

/s/ James H. Epps, IV
STAFF ATTORNEY

Upon motion by Commissioner David Tomita, seconded by Vice-Mayor Clayton Stout, **Ordinance No. 4559-14**, "AN ORDINANCE TO AMEND THE CODE OF THE CITY OF JOHNSON CITY, TENNESSEE REGARDING EMERGENCY ALARM DEVICES AND SUBSTITUTING NEW PROVISIONS FOR CHAPTER 6 OF TITLE 11 REGARDING FALSE ALARMS," was **passed on third reading**. The motion **carried** by five ayes. There were no nay votes.

ORDINANCE NO. 4559-14

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF JOHNSON CITY, TENNESSEE BY DELETING CHAPTER 6 OF TITLE 11 REGARDING EMERGENCY ALARM DEVICES AND SUBSTITUTING NEW PROVISIONS FOR CHAPTER 6 OF TITLE 11 IN LIEU THEREOF REGARDING FALSE ALARMS AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION 1. That Chapter 6 of Title 11 of the Code of the City of Johnson City, Tennessee is hereby repealed in its entirety, and a new Chapter 6 of Title 11 be adopted in lieu thereof, which shall provide as follows:

**Chapter 6 – FALSE ALARMS
IN GENERAL**

Sec. 1 - Purpose

The purpose of this ordinance is to encourage alarm end users to use and maintain alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.

These regulations also establish penalties for violations for repeated summoning of emergency personnel when and where an emergency did not exist.

Sec. 2 - Definitions

Alarm Company means a person(s) in the business of selling, providing, maintaining, servicing, replacing, or monitoring alarm systems.

Alarm Dispatch means a notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within Washington, Carter, and Sullivan Counties), the police department, fire department, or emergency medical services that an alarm is activated, and the appropriate emergency responders are notified or dispatched. This definition includes hold-up alarms as well as alarms commonly referred to as duress or panic alarms.

Alarm Site means the point of origin of the alarm at a street address that appears in the alarm dispatch notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within

Washington, Carter, and Sullivan Counties). For multi-family residential complexes that contain two or more individual units or apartments, an alarm site shall be defined as the street address of the multi-family residential complex in its entirety and not an individual unit or apartment within the complex, unless a tenant of the complex installs or causes to be installed an alarm system or has a contract for monitoring or maintenance of an alarm system, in which case that tenant's apartment/unit shall be the alarm site and that tenant shall be the alarm user.

Alarm System means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual, or electronic signal indicating an alarm condition and intended to summon law enforcement or other emergency responders, including local alarm systems that may be audible only. Alarm system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

Alarm User means any person, company, institution, or other commercial, public, or private entity that has contracted for monitoring, repair, installation, or maintenance service from an alarm company or monitoring company for an alarm system, or any of the above-listed persons or entities that own or operate an alarm system which is not monitored, maintained, or repaired under contract.

Cancellation means the process by which a response is terminated when a monitoring company for the alarm site, designated by the alarm user, or other qualified person, notifies the Emergency Communications District or the responding emergency service that there is not an existing situation at the alarm site requiring an emergency response after an alarm dispatch request.

False Alarm means an alarm dispatch to an emergency service provider, when the responding emergency service provider finds no evidence of an emergency or criminal offense or attempted criminal offense or fire or medical emergency, after having completed an investigation of the alarm site. This definition includes, but is not limited to, mechanical failure, malfunction, improper installation and maintenance, or the negligence of the owner or lessee of an alarm system or his/her/its employees or agents, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to the control of the alarm user or alarm company.

Each alarm site will be granted three (3) false alarm violations within a rolling, twelve (12) month period before enforcement action is commenced, except in the case of a malicious or intentional sounding or activation of an alarm. The three (3) false alarm violations are counted separately for each emergency responder - police, fire, and emergency medical services. Malicious or otherwise intentional alarm sounding or activation that requires a response is considered enforceable immediately without consideration of previous alarm dispatches. Additionally, a malicious false alarm may be prosecuted under state law. A false alarm also includes a hold-up alarm or robbery alarm, which generally result from alarm signals generated by the manual activation of a device intended to signal a robbery in progress, or immediately after it has occurred, when such an emergency did not exist.

Sec. 3 - Enforcement

- A. Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating a police department response.
- B. Fire Marshals of the Johnson City Fire Department are authorized to enforce this chapter as it applies to alarms necessitating a fire department response.

- C. Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating an emergency medical response, at the request of the Director of the Washington County/Johnson City Emergency Medical Services.
- D. Persons responsible for compliance with the terms of this ordinance include alarm site property owners, alarm users, lessees, managers, employees, or anyone who exercises control over the alarm system of a business or residence, as the case may be.

Sec. 4 – Violations and Penalty

- A. Any instance where emergency responders are dispatched to investigate an alarm, wherein the alarm is determined to be false, is considered a violation of this ordinance. A fine of up to fifty dollars (\$50.00) for each such false alarm may be assessed by the Johnson City Municipal Court.
- B. An alarm dispatch that is cancelled prior to the emergency services arrival will not be considered a countable false alarm.
- C. It is a violation of this chapter for an alarm company to activate a false alarm while installing, repairing or doing maintenance work on an alarm system. If the fire or police department is notified to cancel the call prior to arrival, it will not be considered a false alarm.
- D. In addition to the penalty in Section 4 (A), the Municipal Court may assess and render a judgment for the actual costs of the response, including but not limited to the costs of the equipment, fuel, personnel, and supplies.

SECTION II. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION III. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING
ON THE FIRST READING 8/21/2014
PASSED IN OPEN, PUBLIC MEETING
ON THE SECOND READING 9/4/2014
PASSED IN OPEN, PUBLIC MEETING
ON THE THIRD READING 9/18/2014

APPROVED AND SIGNED IN OPEN
MEETING ON THE 18th DAY OF
September, 2014
FOLLOWING PASSAGE ON THIRD
READING

/s/ Ralph Van Brocklin
MAYOR

ATTEST:
/s/ Janet Jennings
CITY RECORDER

APPROVED AS TO FORM:
/s/ James H. Epps, IV
STAFF ATTORNEY

Upon motion by Vice-Mayor Clayton Stout, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Jeff Banyas was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a License Agreement with the Haven of Mercy for their use of City owned properties that border King Street and Millard Street for their 38th Anniversary Celebration Event on September 28, 2014, be and the same is hereby approved.

Upon motion by Commissioner David Tomita, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Jeff Banyas was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That authorization for the Mayor to execute the Interlocal Agreement between the City of Johnson City and the 9-1-1 Emergency Communications District of Washington County, be and the same is hereby approved.

At this time, Phil Pindzola, Public Works Director, presented an update regarding Public Works Projects.

At this time, City Manager Pete Peterson presented the City Manager's Report.

There being no further business or discussion, Mayor Ralph Van Brocklin adjourned the meeting at 8:11 p.m.

RALPH VAN BROCKLIN
MAYOR

JANET JENNINGS
CITY RECORDER

ITEMS DEFERRED:

1. Consent Agenda Item A.5., Crown Castle Agreement for co-location of cell phone antennas on the Master's Knob Reservoir Site, for up to thirty (30) days, to allow staff additional time to provide comparative lease rates.
2. Ordinance No. 4562-14, "AN ORDINANCE TO AMEND THE FISCAL YEAR 2015 GENERAL PURPOSE SCHOOL FUND BUDGET," on *first reading*.

ACTION ITEMS:

1. None.