



CITY OF JOHNSON CITY  
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## **CITY OF JOHNSON CITY**

**TO:** **Teresa**, Johnson City Press (423) 929-9097  
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**FROM:** Samantha Berkley, (434-6032)  
City of Johnson City - Fax (423) 434-6087

**DATE:** August 4, 2021

**SUBJECT:** Legal Notice

### **PLEASE ADVERTISE AS SOON AS POSSIBLE**

#### **ORDINANCE NO. 4780-21**

AN ORDINANCE TO AMEND ARTICLE II – DEFINITIONS, ARTICLE IV, SECTION 4.13 – ACCESSORY USES, ARTICLE VI – USE REQUIREMENTS BY DISTRICT, AND ARTICLE XI – PARKING REGULATIONS IN THE CITY OF JOHNSON CITY ZONING ORDINANCE AS IT RELATES TO SUBSTANCE ABUSE TREATMENT FACILITIES OR MEDICATION ASSISTED TREATMENT.

**WHEREAS**, Sections 13-7-201 through 13-7-212 of the Tennessee Code Annotated provide the City of Johnson City, TN with the powers and authority to enact and amend local municipal zoning codes;

**WHEREAS**, the Johnson City Regional Planning Commission on June 8, 2021 considered and recommends approval of the proposed amendments;

**WHEREAS**, The Board of Commissioners of the City of Johnson City, TN has determined that it is in the public interest to amend the local municipal zoning codes as follows.

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

**SECTION 1.** That Article II – Definitions, Article IV, Section 4.13 – Accessory Uses, Article VI – Use Requirements By District, and Article XI – Parking Regulations in the City of Johnson City Zoning Ordinance as it relates to Substance Abuse Treatment Facilities or Medication Assisted Treatment, Exhibit A, is amended as underlined and/or stricken.

**SECTION 2. BE IT FURTHER ORDAINED,** That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. BE IT FURTHER ORDAINED,** That this ordinance shall take effect upon final passage and publication of this ordinance in a newspaper of general circulation, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON  
THE FIRST READING 01 July 2021

PASSED IN OPEN, PUBLIC MEETING ON  
THE SECOND READING 15 July 2021

PASSED IN OPEN, PUBLIC MEETING ON  
THE THIRD READING 29 July 2021

APPROVED AND SIGNED IN OPEN MEETING  
ON THE 29th DAY OF July, 2021  
FOLLOWING PASSAGE ON THIRD READING.

/s/ Joe Wise  
MAYOR

ATTEST:

/s/ Janet Jennings  
CITY RECORDER

/s/ Sunny Sandos  
STAFF ATTORNEY

## EXHIBIT A

### ZONING TEXT AMENDMENT: Provisions on Substance Abuse Treatment Facilities

**SUMMARY:** In order to comply with the Tennessee Code Annotated, and more specifically the ADA, the city's zoning regulations addressing substance abuse facilities need to be amended.

### PURPOSE OF THE CHANGES

The proposed changes are intended to:

1. Align zoning ordinance provisions to the current TN Dept. of Mental Health & Substance Abuse Services rules, which specify licensure and practice requirements, and with the Americans with Disabilities Act (ADA) provisions that prohibit discriminatory provisions and practices in the treatment of mental health disorders, including Medication Assisted Treatment (MAT).
2. Clarify terminology and definitions with modern, acceptable practices.

### PROPOSED AMENDMENTS

- Any and all text that is ~~stricken~~ is recommended to be repealed
- Any and all text that is underlined is newly proposed

## ARTICLE II

### DEFINITION OF TERMS USED IN THE CODE

**Clinic** means a ~~building or portion of a building, other than a hospital, as herein defined, containing facilities providing~~ non-institutional facility in an office environment of solo or group practice providing outpatient surgical, medical, dental, chiropractic, optical, osteopathic diagnostic, and similar services, for humans, by physicians, dentists, and other health care specialists-practitioners. Urgent care facilities are considered clinics. The term clinic includes offices as a separate use for the above, but does not include substance abuse treatment facility, or non-residential substance abuse treatment facilities Clinics may include "nonresidential office-based opiate treatment facilities" (OBOT) or "nonresidential office-based opiate treatment facilities with dispensing authorization" (OBOT Plus), as defined by the Tennessee Rules of Department of Mental Health and Substance Abuse Services, Division of Administrative and Regulatory Services, Chapters 0940-05-35 and 0940-05-36, but do not include a "nonresidential opioid treatment program" as licensed under Tennessee Rule 0940-05-42.

**Medical clinic** means ~~medical services for out-patients only.~~

**Non-residential substance abuse treatment facility (scheduled drugs dispensed on-site)** means 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, distributing or dispensing scheduled drug(s) on-site to individuals who

~~are dependent or addicted to legal or illegal drugs, opiates, alcohol or other similar substances. The obligation of the operations of such a facility to obtain a CON and license from the State of Tennessee shall create a presumption that the intended use is a non-residential substance abuse treatment facility (scheduled drugs dispensed on-site).~~

~~**Substance abuse treatment facility** means 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.~~

## ARTICLE VI USE REQUIREMENTS BY DISTRICT

### 6.13 - MS-1 MEDICAL SERVICES DISTRICT

6.13.2.28 Nonresidential opioid treatment program facilities as defined under Tennessee Rule 0940-05-42 of the Department of Mental Health and Developmental Disabilities.

#### 6.13.3. USES PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:

The following uses are permitted when approved by the Board of Zoning Appeals as Special Exceptions as provided by Section 15.4:

~~6.13.3.4 Non-Residential Substance Abuse Treatment Facility (scheduled drugs dispensed on-site):~~

~~A. The facility shall be fully licensed/certified by the appropriate regulating state or federal agency, if required;~~

~~B. If a certificate of need (CON) is required, a copy of the CON application shall be submitted to the Board of Zoning Appeals prior to being heard by the Board. The CON shall be obtained as a condition of final approval; no building permits shall be issued or occupancy be allowed prior to the petitioner receiving the CON and licenses; and presenting them to the Development Services Department;~~

~~C. The facility shall be located on properties which abuts, adjoins, or physically borders a collector street, arterial street, or any section of State of Franklin Road;~~

~~D. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and~~

~~E. The facility shall provide one off-street space per 100 square feet of gross floor area plus one space per employee as specified in Article XI, [Section 11.3.](#)~~

~~F. Substance abuse treatment facility provided:~~

~~G. The facility shall be fully licensed/certified by the appropriate regulating state~~

agency, if required;

~~H. A certificate of need, if required, shall be obtained from the appropriate state agency prior to review by the Board of Zoning Appeals;~~

~~I. The facility shall not be located adjacent to or within 200 feet of a residential district including R-1, R-2, R-2A, R-2B, R-2C, R-3, R-4, R-5, R-6, RP-2, RP-3, RP-4, RP-5, RM-3, RM-4, RM-6, RO-1, and RO-2 districts;~~

~~J. The facility shall not operate before 7:00 a.m. or after 8:00 p.m.;~~

~~K. The facility shall be located on a collector street, arterial street, or State of Franklin Road;~~

~~L. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and~~

~~M. The facility, if located within a single tenant structure, shall meet the off-street parking requirements as specified in Article XI, [Section 11.3](#).~~

~~N. **B-4 PLANNED ARTERIAL BUSINESS DISTRICT**~~

~~O. USES PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:~~

~~P. The following uses are permitted when approved by the Board of Zoning Appeals as Special Exceptions as provided by Section 15.4:~~

**6.17.3.5 Substance abuse treatment facility provided:**

A. The facility shall be fully licensed/certified by the appropriate regulating state agency, if required;

B. A certificate of need, if required, shall be obtained from the appropriate state agency prior to review by the Board of Zoning Appeals;

C. The facility shall not be located adjacent to or within 200 feet of a residential district including R-1, R-2, R-2A, R-2B, R-2C, R-3, R-4, R-5, R-6, RP-2, RP-3, RP-4, RP-5, RM-3, RM-4, RM-6, RO-1, and RO-2 districts;

D. The facility shall not operate before 7:00 a.m. or after 8:00 p.m.;

E. The facility shall be located on a collector street, arterial street, or State of Franklin Road;

F. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and

G. The facility, if located within a single tenant structure, shall meet the off-street parking requirements as specified in Article XI, [Section 11.3](#).

**6.19 - I-1 LIGHT INDUSTRIAL DISTRICT**

**6.19.3 USES PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:**

The following uses are permitted when approved by the Board of Zoning Appeals as

Special Exceptions as provided by Section 15.4:

~~6.19.3.6 Substance abuse treatment facility provided:~~

- ~~A. The facility shall be fully licensed/certified by the appropriate regulating state agency, if required;~~
- ~~B. A certificate of need, if required, shall be obtained from the appropriate state agency prior to review by the Board of Zoning Appeals;~~
- ~~C. The facility shall not be located adjacent to or within 200 feet of a residential district including R-1, R-2, R-2A, R-2B, R-2C, R-3, R-4, R-5, R-6, RP-2, RP-3, RP-4, RP-5, RM-3, RM-4, RM-6, RO-1, and RO-2 districts;~~
- ~~D. The facility shall not operate before 7:00 a.m. or after 8:00 p.m.;~~
- ~~E. The facility shall be located on a collector street, arterial street, or State of Franklin Road;~~
- ~~F. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and~~
- ~~G. The facility, if located within a single tenant structure, shall meet the off-street parking requirements as specified in Article XI, [Section 11.3](#).~~

**6.23 - RTP - RESEARCH/TECHNOLOGY PARK DISTRICT**

6.23.3 USES PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:

The following uses are permitted when approved by the Board of Zoning Appeals as Special Exceptions as provided by Section 15.4:

~~6.23.3.2 Substance abuse treatment facility provided:~~

- ~~A. The facility shall be fully licensed/certified by the appropriate regulating state agency, if required;~~
- ~~B. A certificate of need, if required, shall be obtained from the appropriate state agency prior to review by the Board of Zoning Appeals;~~
- ~~C. The facility shall not be located adjacent to or within 200 feet of a residential district including R-1, R-2, R-2A, R-2B, R-2C, R-3, R-4, R-5, R-6, RP-2, RP-3, RP-4, RP-5, RM-3, RM-4, RM-6, RO-1, and RO-2 districts;~~
- ~~D. The facility shall not operate before 7:00 a.m. or after 8:00 p.m.;~~
- ~~E. The facility shall be located on a collector street, arterial street, or State of Franklin Road;~~

~~F. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and~~

~~G. The facility, if located within a single tenant structure, shall meet the off-street parking requirements as specified in Article XI, [Section 11.3](#).~~

## **6.27 - PB PLANNED BUSINESS DISTRICT**

### **6.27.3 USES PERMITTED BY APPROVAL AS SPECIAL EXCEPTION:**

The following uses are permitted when approved by the Board of Zoning Appeals as Special Exceptions as provided by Section 15.4:

#### ~~6.27.3.2 Substance abuse treatment facility provided:~~

~~A. The facility shall be fully licensed/certified by the appropriate regulating state agency, if required;~~

~~B. A certificate of need, if required, shall be obtained from the appropriate state agency prior to review by the Board of Zoning Appeals;~~

~~C. The facility shall not be located adjacent to or within 200 feet of a residential district including R-1, R-2, R-2A, R-2B, R-2C, R-3, R-4, R-5, R-6, RP-2, RP-3, RP-4, RP-5, RM-3, RM-4, RM-6, RO-1, and RO-2 districts;~~

~~D. The facility shall not operate before 7:00 a.m. or after 8:00 p.m.;~~

~~E. The facility shall be located on a collector street, arterial street, or State of Franklin Road;~~

~~F. The petitioner shall provide the Board of Zoning Appeals with information regarding the number of staff to be employed; and~~

~~G. The facility, if located within a single tenant structure, shall meet the off-street parking requirements as specified in Article XI, [Section 11.3](#).~~

## **4.13.4 – ACCESSORY USES**

### **B. Prohibited home occupations:**

1. Kennels and veterinarian clinics or hospitals;
2. Medical and dentist offices involving patient visitation;
3. Motor vehicle repair;
4. Retail sales of goods on the premises;
5. Barber and beauty shops exceeding one chair; ~~and~~

~~6. Substance abuse treatment facility involving client visitation;~~

### **11.3 - REQUIRED PARKING SPACES**

~~Non-residential substance abuse treatment facility One off-street space per 100 square feet of gross floor area plus one space per employee.~~