

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO READOPT THE MILAN MUNICIPAL ZONING ORDINANCE IN ITS ENTIRETY**

**WHEREAS**, Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated empowered the City to enact the Milan Municipal Zoning Ordinance and provide for its administration, enforcement; and,

**WHEREAS**, the Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the health, safety, prosperity, morals and general welfare of the City to amend said Ordinance; and,

**WHEREAS**, the Milan Municipal/Regional Planning Commission has reviewed said proposed amendments pursuant to Sections 13-7-203 and 13-7-204 of the Tennessee Code Annotated and recommends such amendments to the Milan Board of Mayor and Aldermen; and,

**WHEREAS**, the Board of Mayor and Aldermen has given due public notice of a hearing on said amendment and has held a public hearing; and,

**WHEREAS**, all the requirements of Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated, with regard to the amendment of a zoning ordinance by the Planning Commission and subsequent action of the Board of Mayor and Aldermen have been met;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Mayor and Aldermen of the City of Milan, Tennessee that the text of the Milan Municipal Zoning Ordinance be amended as follows:

**SECTION 1.** That the entire text of the Milan Municipal Zoning Ordinance be deleted in its entirety and replaced with the following:

# MILAN MUNICIPAL ZONING ORDINANCE

## MILAN, TENNESSEE

As Re-Adopted April 13, 2010

Prepared

by the

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## CHAPTER 1

### MUNICIPAL PLANNING COMMISSION

11-101. Creation and membership. Pursuant to the provisions of Section 13-4-701 of the Tennessee Code Annotated there is hereby created a Municipal Planning Commission, hereinafter referred to as the Planning Commission. The Planning Commission shall consist of seven (7) members, four of whom shall be appointed from the four city wards and one who shall be a resident of the Milan Planning Region. One of the members shall be the Mayor of Milan and one of the members shall be a member of the Board of Aldermen of Milan, who is appointed by the board of Mayor and aldermen. All other members shall be appointed by the Mayor, with the concurrence of a majority of the Board of Aldermen.

All members of the Planning Commission shall reside within the City of Milan or its planning region and attend the meetings as regularly as possible. The Mayor shall have the authority to remove any Commission member who has been absent for three (3) consecutive regular Planning Commission meetings. The appointments to membership of the commission shall be so arranged that the term of membership shall be five (5) years except that the initial individual appointments to the Planning Commission shall be terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. The terms of the Mayor and alderman shall be coterminous with their terms of office. Members whose terms expire, or their successors, may be appointed for terms of four (4) years. All members shall serve without compensation. (Ord., Nov. 13, 1962, modified; amended July 12, 1994).

11-102. Vacancies and removal of members. Any vacancy shall be filled for the unexpired term of the membership through appointment by the Mayor, with concurrence of a majority of the Board of Aldermen. The Mayor shall have authority to remove any appointive member with the concurrence of a majority of the Board of Aldermen. (Ord., Nov. 13, 1962, modified; amended July 12, 1994).

11-103. Organization, powers, duties, etc. The Planning Commission shall be organized and shall carry out its powers, functions and duties in accordance with Tennessee Code Annotated Sections 13-4-101 through 13-4-309 and the by-laws which it adopts. (Ord., Nov. 13, 1962, modified; amended July 12, 1994).

11-104. Additional powers. Having been designated as a regional planning commission, the Municipal Planning Commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

## AUTHORITY

An ordinance, in pursuance of the authority granted by Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated, and for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts or zones within the corporate limits of Milan, to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

BE AT ORDAINED BY THE BOARD OF MAJOR AND ALDERMEN OF MILAN, TENNESSEE, AS FOLLOWS:

11-105. Title - This ordinance shall be known and may be cited as the Zoning Ordinance of Milan, Tennessee and the map herein referred to which is identified by the title "Official Zoning Map, Milan, Tennessee" and all explanatory matters thereon are hereby adopted and made a part of this ordinance. The Official Zoning Map shall be located in the City Hall and shall be identified by the signature of the Mayor attested by the Recorder.

11-106. Purpose - The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

## CHAPTER 2

### DEFINITIONS

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

1. "Advertising Sign". Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" does not include the word "billboard sign" nor the flag, pennant or insignia of any nation, state, city or other political unit.
2. "Alley". Any public or private way set aside for public travel, twenty (20) feet or less in width.
3. "Billboard Sign". An off-site advertising sign having a face greater than one hundred (100) square feet which is either erected on the ground or attached to or supported by a building or structure.
4. "Building". Any structure or installation constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, gasoline pump island, lunch wagons, dining cars, trailers, and similar structures whether stationary or movable.
  - (a) "Principal Building". A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.
  - (b) "Accessory Building". A subordinate building, the use of which is incidental to that of a principal building on the same lot.
5. "Clinic". A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions. This includes doctor and dental offices.
6. "Dwelling, Single-Family". A detached residential dwelling unit other than a mobile home designed for and occupied by one family only.
7. "Dwelling, Multiple-Family & Apartments". A residential building other than a mobile home designed for and occupied by two or more families.

8. "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.
9. "Development". Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.
10. "Family". One (1) or more persons occupying a premises and living as a single non-profit housekeeping unit.
11. "Flood". A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of rivers or streams or the unusual and rapid accumulation of runoff of surface waters from any source.
12. "Floodway". the steam channel and the portion of the adjacent floodplain which must be reserved solely for the passage of floodwaters in order to prevent an increase in upstream flood heights of more than one (1) foot above the predevelopment conditions.
13. "Floodway Fringe Area". Lands lying outside a designated floodway but within the area subject to inundation by the 100-year flood.
14. "Floodproofing". Any combination of structural or non-structural additions, changes, or adjustments which reduces or eliminates flood damage to real estate, improved real property, water supply and sanitary sewer facilities, electrical systems, and structures and their contents.
15. "Floodplain". A relatively flat or low area adjoining a river or stream which is periodically subject to partial or complete inundation by floodwaters, or a low area subject to the unusual and rapid accumulation of runoff of surface waters from any source. For the purposes of this ordinance, the land subject to inundation by the 100-year flood, i.e., the 100-year floodplain.
16. "Lot". A piece, parcel or plot of land in one ownership, which may include one (1) or more lots of record, occupied or to be occupied by buildings and accessory buildings and including the open spaces required under this ordinance. All lots shall front on and have access to a street.
  - (a) "Lot Lines". The boundary dividing a given lot from a street, an alley, or adjacent lots.

- (b) "Lot of record". A lot, the boundaries of which are filed as a legal record.
17. "Mobile Home". A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, 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, located on jacks and other temporary or permanent foundations, connection to utilities, and the like. The character of a mobile home as a non-permanent dwelling shall not be changed in the view of this ordinance by removal of the wheels and/or carriage or placement on a permanent foundation.
- A travel trailer is not to be considered as a mobile home.
- (a) "Independent Mobile Homes". A mobile home equipped with interior toilet and bathing facilities and fixtures for connection of such facilities to permanent water supply and sewage collection systems.
- (b) "Travel Trailer". A trailer or vehicle designed for short term occupancy and built to be transported on its own wheels.
18. "Mobile Home Park". Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
19. "One Hundred Year Flood". A flood which has, on the average, a 1 percent chance of being equaled or exceeded in any given year. It is sometimes referred to as the "1-percent-chance flood".
20. "Public Way". Right-of-way.
21. "Story". That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.
22. "Street". Any public or private way set aside for public travel twenty-one (21) feet or more in width. The word "street" shall include the words "road", "highway", and "thoroughfare".
23. "Substantial Improvement". Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds a fifty (50) percent of the market value of the structure either (1) before the repair or improvement or (2) before the damage occurred. For the purposes of this ordinance, substantial improvement is considered to occur when the 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 structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, or (2) any alteration or restoration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

24. "Telecommunications Structure". A building tower, or other structure and equipment used for the transmission, re-transmission, broadcast, or promulgation of telephone, telegraph, radio, television, or other communications signals. (See code 47 in the Standard Land Use Coding Manual).
25. "Total Floor Area". The area of all floors of a building including finished attic, finished basement and covered porches.
26. "Townhouse". A building consisting of a series of two or more attached dwelling units with separate entrances.
27. "Yard". A required open space other than a court occupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.
  - (a) "Front Yard". The yard extending across the entire width of the lot between the front yard line, and the nearest part of the principal building, including covered porches and carports.
  - (b) "Rear Yard". The yard extending across the entire width of the lot between the rear lot line, and the nearest part of the principal building, including covered porches and carports.
  - (c) "Side Yard". A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches and carports.

## CHAPTER 3

### GENERAL PROVISIONS RELATING TO ZONING

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

11-301. Zoning Affects Every Building and Use - No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by or in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation.

11-302. Erection of More than One Principal Structure on a Lot - In any district, more than one structure housing permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.

11-303. Reduction in Lot Area Prohibited - No lot, even though it may consist of one or more adjacent lots of record shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

11-304. Required Yard Cannot be Used by Another Building - No part of a yard or other open space required about any building for the purpose of complying with the provisions of these regulations shall be included as part of a yard or other open space required under these regulations for another building.

11-305. Rear Yard Abutting a Public Street - When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same set back from the street line, centerline of the street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

11-306. Obstruction to Vision at Street Intersection Prohibited - on a corner lot not in a B-3 (General Business) District, within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of one hundred (100) feet from their intersection, there shall be no obstruction to vision between a height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

11-307. Off-Street Automobile Storage -

1. There shall be provided, at the time of erection of any building or structure, or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use of occupancy to another, permanent off-street parking space of at least 9 by 18 feet per space with vehicular access to a street or alley for the specific uses as set forth below. For a lot with no access to either a public or private alley, the city reserves the right to control ingress and egress over private right-of-way. Off-street parking space shall be deemed to be required open space associated without the permitted use and shall not hereafter be reduced or encroached upon in any manner. All parking spaces for all uses shall be arranged in such a manner to prevent a vehicle backing onto a public way during egress.
  - (a) Dwelling: Not less than one (1) space for each single family dwelling, and not less than 1 1/2 spaces for each unit in multi-family dwellings and apartments.
  - (b) Boarding Houses, Rooming Houses: Not less than one (1) space for each room or unit occupied by boarders or roomers.
  - (c) Tourist Accommodations: Not less than one (1) space for each room or unit offered for tourist accommodations.
  - (d) Office Buildings, Manufacturing or Other Industrial Building or Use: Not less than one (1) space for each two (2) persons employed computed on the basis of total number of employees on the two largest consecutive shifts. In addition, there will be provided vehicle storage or standing space for all vehicles used directly in the conduct of such office or industrial use.
  - (e) Retail Uses: In all business districts, except B-3 (General Business) district, not less than one (1) space for each two hundred (200) square feet of store sales area.
  - (f) Restaurants (Dine-in): One space per seventy-five (75) feet of dining area plus one (1) space for each three (3) employees.
  - (g) Restaurants (Drive-thru): One space per one hundred (100) feet of dining area plus one (1) space per 3 employees. Drive-in lanes are required a minimum of four (4) stacking spaces for drive-thru window.
  - (h) Theaters, Auditoriums, Stadiums, Churches or Other Use Designed to Draw an Assembly of Persons: Not less than one (1) space for each five (5) seats provided in such place of assembly, except in a B-3 (General Business) District.

- (i) Public Building: Not less than one (1) space for each two hundred (200) square feet of total floor area of all floors in building except basement, except in a B-3 (General Business) District.
  - (j) Medical Offices: Three (3) patient's parking spaces per staff doctor, plus two (2) spaces per three (3) employees, plus one (1) space per staff doctor.
  - (k) Funeral Homes: One (1) space for each company vehicle plus one (1) space for each three (3) seats in meeting room.
  - (l) Other Uses: As determined by the Board of Zoning Appeals.
2. Parking space maintained in connection with an existing and continuing main building or structure on the effective date of this ordinance up to the number required by this ordinance shall be continued and may not be counted as serving a new structure or addition; nor may any parking space be substituted for a loading space, nor any loading space substituted for a parking space.
  3. If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

11-308. Off-Street Loading and Unloading Spaces - Every building or structure used for business or trade shall provide adequate space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or if there is no alley, to a public street.

11-309. Access Control - In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

1. A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty (30) feet in width.
2. There shall be no more than two (2) points of access to any one (1) public street on a lot of less than 400 feet but more than 100 feet in width. Lots less than one hundred (100) feet in width shall have not more than one (1) point of access to any one (1) public street.

3. No point of access shall be allowed within ten (10) feet of the right-of-way of any public street intersection.
4. Where sidewalks exist, the area existing between the street and an interior parking space or driveway parallel to the street shall have a curb at least six (6) inches in height and six (6) inches in width separating the parking area from the sidewalk to prevent encroachment of vehicles onto the sidewalk area.
5. No curbs on city streets or right-of-way shall be cut or altered without written approval of the Building Inspector.
6. Cases requiring variances relative to this action, and hardships not caused by the property owner, shall be heard and acted upon by the Board of Zoning Appeals, provided further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangement would require that vehicles back directly into a public street.
7. Access control on property abutting state or federal highways shall be governed by official regulations of the Tennessee Department of Highways or the provisions of this ordinance, whichever is higher.

11-310. All residential uses must front on a public street for a distance of fifty (50) feet except on cul-de-sacs which must front for at least thirty-five (35) feet.

11-311. No building or structure, whether conforming or non-conforming, shall be changed, expanded or any way altered except in conformance with all provisions of this ordinance. An example of a violation of this provision would be the division of a single dwelling unit into two (2) or more units except in conformance with this ordinance.

11-312. No building permit shall be issued for the construction of any building for any residential, business, industrial or public use, which would be within the flood plain of any creek, ditch or stream, or which is subject to periodic or occasional inundation, as determined by the Board of Zoning Appeals, unless the construction is in full compliance with all standards of the National Flood Insurance Program. This shall be construed to include the storage of any material which may float and cause drainage obstructions.

11-313. Non-Conformities.

1. Within the districts established by this ordinance or amendments that may later be adopted there exist
  - (a) Non-conforming structures
  - (b) Non-conforming uses of land
  - (c) Non-conforming uses of structures

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to recognize that the elimination, as expeditiously as is reasonable, of the existing structures or uses of land or structures that are not in conformity with the provisions of this ordinance, is as much a subject of health, safety and welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to so administer the elimination of non-conformities as to avoid any unreasonable invasion of established private property rights.

2. Any non-conforming structure may not be:
  - (a) Extended except in conformity with this ordinance except as permitted by Chapter 279 of the public Acts of 1973 which amends Section 13-7-208, Tennessee Code Annotated.
  - (b) Rebuilt or repaired after damage exceeding seventy-five (75) percent of replacement value except in conformity with the provision of this ordinance or as permitted by Chapter 279 of the Public Acts of 1973 which amends Section 13-7-208, Tennessee Code Annotated.
  
3. Any non-conforming use of land may not be:
  - (a) Changed to another non-conforming use which would be more detrimental to the district in which it is located as determined by the Board of Zoning Appeals.
  - (b) Extended, except in conformity with this ordinance or as permitted by Chapter 279 of the Public Acts of 1973 which amends Section 13-7-208, Tennessee Code Annotated.
  
4. Any non-conforming use of structure may not be:
  - (a) Changed to another non-conforming use which would be more detrimental to the district in which it is located as determined by the Board of Zoning Appeals.
  - (b) Re-established after discontinuance of one year except as permitted by Chapter 279 of the Public Acts of 1973 which amends Section 13-7-208, Tennessee Code Annotated.
  
5. Any structure used for a non-conforming use shall not be rebuilt or repaired after damage exceeding seventy-five (75) percent of replacement cost unless the use and structure conform to the provisions of this ordinance or as permitted by

Chapter 279 of the Public Acts of 1973 which amends Section 13-7-208, Tennessee Code Annotated.

11-314. Provisions relating to Fences

Section A. Fence Defined

Fence – An artificially constructed barrier erected to enclose, screen or prevent access to property.

Section B. Permitting

It shall be unlawful for any contracting, individual or property owner to commence the installation of any fence to commence the moving or alteration of any existing fence until the Building Department has reviewed application and issued a fence permit for such work. It shall be the responsibility of the property owner to see that any violations of the approved application that may exist as determined by the Building Official or his representative within a reasonable time period specified by the Building Official are corrected.

Section C. Allowable height, construction materials and location of fences

1. Fences with the exception of retaining walls in side and rear yards must be constructed of wood, brick, vinyl, ornamental iron, chain link or aluminum and may not exceed a height of 7 (seven) feet. Height shall be measured from the finished surface of the top of the fence to the finished grade.
2. No fence is to be erected in the front yard of any residential lot not in an R-4 (Residential-Professional) District.
3. No fence will be allowed to be located on city right-of-way. If no right-of-way has been platted then it will be based on the classification of the street by the major road plan and the subdivision regulations of the City of Milan. The City of Milan Public Works is authorized to remove any fencing which is improperly placed within the City of Milan right-of-way.
4. No fence may be erected which obstructs vision at a street intersection as outlined in Section 11-306 of the Milan Zoning Ordinance.
5. No fence shall obstruct visibility for sidewalks, streets, traffic signals or signs and other public ways.
6. On corner lots, fences shall not be permitted beyond the front face of the primary structure or the front yard setback line, whichever distance from the property line is greater, on the street side on which the house faces. On the street side on which the house does not face, a fence shall not be permitted beyond the side of the primary

structure or the minimum require side yard setback, whichever distance from the property line is greater.

7. When the rear yard of a lot abuts a public street (ex: Double frontage lots), any fence built in that rear yard shall not be permitted beyond the minimum required front yard setback as required by the Milan Zoning Ordinance for the structures fronting that street. When the rear yard of a lot is a corner lot and abuts a public street on the rear and side of the property, any fence built in that rear yard shall meet both the minimum required front yard setback and the side facing the intersecting street minimum setback as required by the Milan Zoning Ordinance. In addition, any fence located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting that street.

#### Section D. General Provisions

1. All fences, regardless of type or material, shall have finished side facing public rights-of-way, common open areas, parkland or greenbelt areas and other public areas.

2. Specifically prohibited fencing materials shall include, but are not limited to, wire mesh or shingle wire or electrified fencing (except in relation to active livestock and farming operations), cinder block or concrete block, snow fence, and barbed wire. All other materials not specifically allowed by the ordinance are prohibited.

3. Fences must be installed to provide sufficient unobstructed clearance from the bottom of the fence to the ground so drainage will flow freely and not negatively impact any adjacent property owner. Fences located in or along drainage easements shall have a minimum unobstructed ground clearance of two inches. Greater clearance may be required by the Milan Public Works to prevent adverse effects on drainage flow.

4. No fence or wall shall block access to any above ground, pad mounted electrical transformer installed and maintained by the Milan Public Utilities. A 15 foot clear access must be provided for maintenance of pad mounted transformers.

5. Fences on double frontage lots where the rear or side yards face a public right-of-way shall be maintained by the property owner or by an established homeowner's association. All areas of vegetation from the fence line to the pavement edge shall be maintained by the property owner in accordance with City of Milan Municipal Code. All fences on the double and reverse frontage lots must have the finished side of the fence facing the public right-of-way.

6. Fences, walls, or hedges installed on public easements (utility, drainage, pedestrian and the like) are subject to removal at the owner's expense in the event maintenance or construction work is required within the public easement.

#### Section E. Maintenance

1. All fences shall be maintained structurally sound and in good repair and appearance. Lack of proper maintenance shall include, but not be limited to, rotten or deteriorated structural members, missing or broken components, excessive sagging of structural members or warping or distortion of planks, fence or wall materials and any other condition which might reasonably threaten the public safety or health.
2. Fences which serve as required barriers to swimming pools shall be provided with gates which are self closing and self-latching. All other requirements of Section 3109 (Swimming Pool Enclosures and Safety Devices) of the International Building Code concerning fences shall still be applicable.

Section F. Zones other than residential (industrial, business, residential – professional, etc.)

1. Any fence constructed in any zone other than a residential zone (R-1, R-2, and R-3) is required to submit an accurately and legibly drawn detailed, site plan showing proposed or existing buildings, parking and access facilities and use of buildings for review and approval by the City of Milan Planning Commission prior to a permit being issued. The Planning Commission may make other reasonable requirements for information when necessary. The planning commission shall have the authority to impose conditions regarding the location, design and other features of fencing and screening which may affect the safety and character of the area and the compatibility of the proposed use to existing nearby uses.
2. The site plan shall be submitted no less than ten (10) days prior to a scheduled Planning Commission Meeting. The Planning Commission shall meet and act upon any application within thirty-five (35) days from the date of the first meeting at which properly prepared site plan is presented. Failure to act shall constitute approval. When an application is denied, the Planning Commission shall state the reasons for such action in writing and they shall be entered in the official records of the Planning Commission.

11-315. Provisions relating to Portable Storage Containers

SECTION A. Definition

Portable Storage Container – a boxlike container transported by truck to a desired location, typically moved from the bed of a truck to the ground and back using a hydraulic metal framework or similar device. Also includes freight trailers which are transported by truck on their own axles and wheels (including but not limited to trailer truck trailers). This does not apply to standard 90 gallon residential trash carts.

SECTION B. In every zone except Industrial (M-1), a Temporary Use Permit shall be required for a portable storage container and issued subject to the following requirements:

1. The use of the portable storage container shall be limited to no more than sixty (60) consecutive days in any year. In the event the owner of the property suffers a catastrophic loss due to fire, flood or other physical calamity occurring on the property in question, the Temporary Use Permit may be extended for additional two week periods upon a showing of need. There shall be no more than three (3) extensions of any Temporary Use Permit. An exception to this shall be made if the portable storage container is being used as temporary storage when work requiring a building or demolition permit is being done to the structures or buildings on the property. In such cases, the portable storage container shall be removed no later than two (2) weeks following the completion of work or the issuance of Certificate of Occupancy. No portable storage container is allowed to remain at any location more than two (2) weeks where work has been stopped or continuous progress is not being displayed.
2. Portable storage containers shall not be placed in a public right-of-way, or located so as to interfere with traffic visibility.
3. Portable storage containers shall not be placed in the front yard of the main building, unless there is a physical hardship or characteristic of the property that will not allow the placement of the container in any other location.

#### SECTION C. Enforcement and Penalties

1. Any person violating any provision of this section of the City of the Milan Zoning Ordinance shall be subject to the penalties as prescribed in Chapter 11, Section 11-1103 of the City of Milan Zoning Ordinance.
2. As an additional remedy the City of Milan has the authority to remove any portable storage container that is in violation of this Section of the City of Milan Zoning Ordinance and charge and bill the owner of the property or responsible party, the expense of removal incurred by the city. If the property owner or responsible party does not pay the charges, the city shall add the amount of such charges to the tax rolls of the city for the next taxable year and require the owner of the land or responsible party to pay such charges before paying the taxes on the land in question.

## CHAPTER 4

### ESTABLISHMENT OF DISTRICTS

11-401. Classification of Districts - For the purpose of this ordinance, Milan, Tennessee is hereby divided into nine (9) districts, designated as follows:

- R-1 Low Density Residential
- R-2 Medium Density Residential
- R-3 High Density Residential
- R-1A Moderate Density Residential
- R-P Residential-Professional
- B-1 Local Business
- B-2 Retail Business
- B-3 General Business
- F-H Flood Hazard District
- M-1 Light Industrial

11-402. Boundaries of Districts

1. The boundaries of districts in Section 11-501 of this Chapter are hereby established as shown on the Official Zoning Map entitled "Zoning Map of Milan, Tennessee," which is a part of this ordinance and which is on file in the City Hall.
2. Unless otherwise indicated on the zoning map, the boundaries are lot lines, the center lines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of this ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.
3. Where a district boundary divides a lot, as existing at the time this ordinance takes effect and the major portion of said lot is in the less restricted district, the regulations relative to that district may be extended twenty (20) feet into the more restricted district within said lot.

## CHAPTER 5

### PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

11-501. R-1 (Low Density Residential) Districts. Within the R-1 (Low Density Residential) Districts, as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted

- (a) Single family dwellings.
- (b) Accessory buildings customarily incidental to any aforementioned permitted use.
- (c) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen (15) feet from all lot lines.

2. Uses Permissible on Appeal

- (a) Hospitals for human care except primarily for mental cases, churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, railroad rights-of-way, as a matter of right, provided however, that the provisions of this ordinance are observed and subject to approval of the site plans by the Board of Zoning Appeals. The Board of Zoning Appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this ordinance, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.
- (b) The Board of Zoning Appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the Board of Zoning Appeals and subject to such conditions as

the Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

- (c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect and preserve the character of the neighborhood in which the proposed use is located; and provided further that:
  - (1) the proposed use shall be located and conducted in the principal building only;
  - (2) the principal and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;
  - (3) not more than fifteen (15) percent of the total floor area in the dwelling unit shall be devoted to proposed use;
  - (4) the proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;
  - (5) no activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way;
  - (6) the proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;
  - (7) the proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located;
  - (8) the provisions of this section shall not be used under any circumstances to permit barber shops, beauty shops, gift shops, florist shops or business offices or professional offices.

3. Uses Prohibited

- (a) Any other use or structure not specifically permitted or permissible on appeal in this Chapter.

4. Location of Accessory Buildings

- (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard, and shall be at least five (5) feet from all lot lines and from any other building on the same lot.
- (b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

5. Regulations Controlling Lot Area, Lot Width, Yards, Building Height. The principal building shall be located so as to comply with the following requirements.

(a) Minimum required lot area.

- (1) Dwellings 9,000 sq. ft. for the first dwelling unit plus 4,500 sq. ft. for each additional dwelling unit.
- (2) Churches One (1) acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater.
- (3) Schools Five (5) acres plus one (1) acre for each 100 students.
- (4) Other Uses As required by the Board of Zoning Appeals.

(b) Minimum required lot width at the building line.

- (1) Dwellings 70 feet
- (2) Churches 200 feet
- (3) Other uses As required by the Board of Zoning Appeals.

(c) Minimum required front yard.

- (1) Dwellings 40 feet
- (2) Churches 40 feet
- (3) Other uses 40 feet or more as required by the Board of Zoning Appeals.

- (d) Minimum required rear yard.
  - (1) Dwellings 30 feet
  - (2) Churches 30 feet
  - (3) Other uses 30 feet or more as required by the Board of Zoning Appeals.
  
- (e) Minimum required side yard on each side.
  - (1) Dwellings  
(one or two story) 15 feet
  - (2) Dwellings  
(three story) 20 feet
  - (3) Churches 30 feet
  - (4) Other uses 15 feet or more as required by the Board of Zoning Appeals.
  
- (f) Minimum required side yard for side facing street on corner lots.  
30 feet
  
- (g) Maximum lot coverage by all buildings.
  - (1) Dwellings and accessories 25%
  - (2) Churches 25%
  - (3) Other uses As may be required by the Board of Zoning Appeals
  
- (h) Maximum permitted height of structures
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.

- (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five (25) feet in height.
- (3) No accessory building shall exceed two (2) stories in height.
- (4) Free standing poles, spires, towers, antennae, and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

11-502. R-2 (Medium Density Residential) Districts. Within the R-2 (Medium Density Residential) Districts as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted.

- (a) Single and two family dwellings.
- (b) Accessory buildings customarily incidental to any aforementioned permitted use.
- (c) Real estate signs advertising the sale, rental or lease of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen (15) feet from all lot lines.
- (d) Mobile home parks, provided all of the provisions of the Mobile Home Park Ordinance are met.

2. Uses Permissible on Appeal.

- (a) Hospitals for human care except primarily for mental cases. Churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, funeral homes provided they are located on a street of at least a collector classification, and railroad rights-of-way shall be permitted, as a matter of right, provided, however, that the provisions of this ordinance are observed and subject to approval of the site plans by the Board of Zoning Appeals. The Board of Zoning Appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this ordinance, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style or proposed buildings, the power to specify building materials or colors, or other similar powers.
- (b) The Board of Zoning Appeals may at its discretion permit county, state, or federal uses, public utilities, facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the Board of Zoning Appeals and subject to such conditions as

the Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

- (c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that:
- (1) the proposed use shall be located and conducted in the principal building only;
  - (2) the principals and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;
  - (3) not more than fifteen (15) percent of the total floor area in the dwelling unit shall be devoted to the proposed use;
  - (4) the proposed use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted elsewhere;
  - (5) no activity, materials, goods or equipment indicative of the proposed use shall be visible from any public way;
  - (6) the proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;
  - (7) the proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located;
  - (8) The provisions of this section shall not be used under any circumstances to permit barber shops, beauty shops, gift shops, florist shops or business offices or professional offices.

3. Uses Prohibited.

- (a) Any other use or structure not specifically permitted or permissible on appeal in this Article.

4. Location of Accessory Buildings.

- (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard, and shall be at least five (5) feet from all lot lines and from any other building on the same lot.
- (b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

5. Regulations Controlling Lot Area, Lot Width, Yards, Building Coverage and Building Height. The principal building shall be located so as to comply with the following requirements.

(a) Minimum required lot area.

- (1) Dwellings 7,500 sq. feet for the first dwelling unit plus 2,000 sq. ft. for each additional dwelling unit.
- (2) Churches One (1) acre or 200 sq. feet of lot area per auditorium seat, whichever is greater.
- (3) Schools Five (5) acres plus one (1) acre for each 100 students.
- (4) Other uses As required by the Board of Zoning Appeals.

(b) Minimum required lot width at the building line.

- (1) Dwellings 60 feet
- (2) Churches 100 feet
- (3) Other uses As required by the Board of Zoning Appeals.

(c) Minimum required front yard.

- (1) Dwellings 30 feet
- (2) Churches 30 feet

- (3) Other uses 30 feet or more as required by the Board of Zoning Appeals.
- (d) Minimum required rear yard.
  - (1) Dwellings 25 feet
  - (2) Churches 25 feet
  - (3) Other uses 15 feet or more as required by the Board of Zoning Appeals.
- (e) Minimum required side yard on each side of lot.
  - (1) Dwellings (one or two story) 10 feet
  - (2) Dwellings (Three story) 15 feet
  - (3) Churches 25 feet
  - (4) Other uses 10 feet or more as required by the Board of Zoning Appeals.
- (f) Minimum required side yard for side facing street on corner lots. 25 feet
- (g) Maximum lot coverage by all buildings
  - (1) Dwellings and accessories 30%
  - (2) Churches 30%
  - (3) Other uses As may be required by the Board of Zoning Appeals.
- (h) Maximum permitted height of structures
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet however.

- (2) On lots less than fifty (50) feet in width at the building line, no building shall exceed one and one-half (1 1/2) stories or twenty-five (25) feet in height.
- (3) No accessory building shall exceed two (2) stories in height.
- (4) Free standing poles, spires, towers, antennae, and similar structures not designed for or suitable for human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

11-503. R-3 (High Density Residential) Districts. Within the R-3 (High Density Residential) Districts, as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted.

- (a) Single and Multiple-family dwellings and apartments, not Mobile Homes on Individual lots.
- (b) Townhouses. Provided the site plans are reviewed and approved by the planning commission. The planning commission shall have the power to require screening adjacent uses, adequate parking, access for fire protection and service vehicles and to assure that the maximum density standards are met.
- (c) Mobile Home Parks, provided all of the provisions of the Mobile Home Park Ordinance are met.
- (d) Accessory buildings customarily incidental to any aforementioned permitted use.
- (e) Real estate signs advertising the sale, rental or lease of only the premises on which they are maintained; provided that they are not over four (4) square feet in area, and at least fifteen (15) feet from all lot lines.

2. Uses Permissible on Appeal.

- (a) Hospitals for human care except primarily for mental cases, churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, funeral homes provided they are located on a street of at least a collector classification, and railroad rights-of-way shall be permitted as a matter of right, provided, however, that the provisions of this ordinance are observed and subject to approval of the site plans by the Board of Zoning Appeals. The Board of Zoning Appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this ordinance, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.
- (b) The Board of Zoning Appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions

and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

- (c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located; and provided further that:
  - (1) the proposed use shall be located and conducted in the principal building only;
  - (2) the principals and employees engaged in proposed use shall be residents of the dwelling unit in which the proposed use is located;
  - (3) not more than fifteen (15) percent of the total floor area in dwelling unit shall be devoted to proposed use;
  - (4) the proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;
  - (5) no activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way;
  - (6) the proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;
  - (7) the proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located.

### 3. Uses Prohibited

- (a) Any other use or structure not specifically permitted or permissible on appeal in this Chapter.

4. Location of Accessory Buildings

- (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard, and shall be at least five (5) feet from all lot lines and from any other building on the same lot.
- (b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

5. Regulations Controlling Lot Area, Lot Widths, Yards, Building Coverage and Building Height. The principal building shall be located so as to comply with the following requirements:

(a) Minimum required lot area.

- (1) Dwellings (single and multiple family) 6,000 sq. ft. for the first dwelling unit plus 2,000 sq. ft. for each additional dwelling unit.
- (2) Churches 20,000 sq. ft. or 200 sq. ft. of lot area per auditorium seat, whichever is greater.
- (3) Schools Five (5) acres plus one (1) acre for each 100 students.
- (4) Other uses As required by the Board of Zoning Appeals.

(b) Minimum required lot width at the building line.

- (1) Dwellings and apartments 50 feet
- (2) Churches 70 feet
- (3) Other uses As required by the Board of Zoning Appeals.

(c) Minimum required front yard.

- (1) Dwellings and apartments 20 feet

- |   |  |   |
|---|--|---|
| (2)   | Churches                                     | 25 feet   |
| (3)   | Other uses                                   | 25 feet or more as required by the Board of Zoning Appeals. |
| <br>(d) Minimum required rear yard.                                       |  |   |
| (1)   | Dwellings and apartments                     | 25 feet   |
| (2)   | Townhouses                                   | 15 feet   |
| (3)   | Churches                                     | 20 feet   |
| (4)   | Other uses                                   | 15 feet or more as required by the Board of Zoning Appeals. |
| <br>(e) Minimum required side yard on each side of lot.                   |  |   |
| (1)   | Dwellings and apartments (one and two story) | 10 feet   |
| (2)   | Three story                                  | 15 feet   |
| (3)   | Churches                                     | 20 feet   |
| (4)   | Other uses                                   | 10 feet or more as required by the Board of Zoning Appeals. |
| <br>(f) Minimum required side yard for side facing street on corner lots. |  |   |
| (1)   | All uses                                     | 20 feet   |
| <br>(g) Maximum lot coverage by all buildings.                            |  |   |
| (1)   | Dwellings and apartments                     | 40%   |
| (2)   | Townhouses                                   | 60%   |
| (3)   | Churches                                     | 35%   |
| (4)   | Other uses                                   | May be as required by the Board of Zoning Appeals.          |

(h) Maximum permitted height of structures.

- (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.
- (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five (25) feet in height.
- (3) No accessory building shall exceed two (2) stories in height.
- (4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

11-504. R-1A (Medium Density Residential) Districts. Within the R-1A (Medium Density Residential) Districts, as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted

- (a) Single family dwellings, not mobile homes.
- (b) Accessory buildings customarily incidental to any aforementioned permitted use.
- (c) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen (15) feet from all lot lines.

2. Uses Permitted on Appeal

- (a) Hospitals for human care except primarily for mental cases, churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, railroad rights-of-way, as a matter of right, provided however, that the provisions of this ordinance are observed and subject to approval of the site plans by the Board of Zoning Appeals. The Board of Zoning Appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this ordinance, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.
- (b) The Board of Zoning Appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.
- (c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written

approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning appeals may require in order to protect and preserve the character of the neighborhood in which the proposed use is located; and provided further that:

- (1) the proposed use shall be located and conducted in the principal building only;
- (2) the principal and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;
- (3) not more than fifteen (15) percent of the total floor area in the dwelling unit shall be devoted to proposed use;
- (4) the proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;
- (5) no activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way;
- (6) the proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;
- (7) the proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located;
- (8) the provisions of this section shall not be used under any circumstances to permit barber shops, beauty shops, gift shops, florist shops or business offices or professional offices.

**3. Uses Permitted**

- (a) Any other use or structure not specifically permitted or permissible on appeal in this Chapter.

**4. Location of Accessory Buildings**

- (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard, and shall be at least five (5) feet from all lot lines and from any other building on the same lot.
- (b) Accessory buildings on corner lots shall conform with front yard setbacks

for both intersecting streets.

5. **Regulations Controlling Lot Area, Lot Width, Yards, Building Height.** The principal building shall be located so as to comply with the following requirements.

(a) Minimum required lot area.

- |     |            |  |
|-----|------------|--|
| (1) | Dwellings  | 9,000 sq. ft.  |
| (2) | Churches   | One (1) acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater. |
| (3) | Schools    | Five (5) acres plus one (1) acre for each 100 students.                            |
| (4) | Other Uses | As required by the Board of Zoning Appeals.  |

(b) Minimum required lot width at the building line.

- |     |            |   |
|-----|------------|---|
| (1) | Dwellings  | 70 feet                                     |
| (2) | Churches   | 200 feet                                    |
| (3) | Other uses | As required by the Board of Zoning Appeals. |

(c) Minimum required front yard.

- |     |            |  |
|-----|------------|--|
| (1) | Dwellings  | 30 feet  |
| (2) | Churches   | 30 feet  |
| (3) | Other uses | 30 feet or more as required by the Board of Zoning Appeals |

(d) Minimum required rear yard.

- |     |            |   |
|-----|------------|---|
| (1) | Dwellings  | 25 feet   |
| (2) | Churches   | 25 feet   |
| (3) | Other uses | 20 feet or more as required by the Board of Zoning Appeals. |

- (e) Minimum required side yard on each side.
  - (1) Dwellings (one or two story) 10 feet
  - (2) Dwellings (three story) 15 feet
  - (3) Churches 20 feet
  - (4) Other uses 10 feet or more as required by the Zoning Board of Zoning Appeals.
  
- (f) Minimum required side yard for side facing street on corner lots. 30 feet
  
- (g) Maximum lot coverage by all buildings.
  - (1) Dwellings and accessories 40%
  - (2) Churches 25%
  - (3) Other uses As may be required by the Board of Zoning Appeals
  
- (h) Maximum permitted height of structures
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.
  - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one half (1 ½) stories or twenty-five (25) feet in height.
  - (3) No accessory building shall exceed two (2) stories in height.
  - (4) Free standing poles, spires, towers, antennae, and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

**11-505. PRD (PLANNED RESIDENTIAL DEVELOPMENT DISTRICT)** Within the PRD (Planned Residential Development Districts), as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

**A. GENERAL DESCRIPTION**

The purpose of this section is to provide greater flexibility in the development of residential areas. These areas would be characterized by both a unified building plan as well as a site development plan. They would have a program which takes into account the efficient and economical use of land while providing a harmonious variety of housing choices, a higher level of urban amenities, and would preserve the natural scenic quality. It is further intended that an economics in land development and maintenance, street systems, and utility networks will be achieved; while providing for building groupings for privacy, usable attractive open spaces, safe circulation patterns, and the general well being of the residents.

**B. DEFINITIONS**

1. Base Zoning District -The zoning of the property prior to the establishment of the PRD.
2. Conditional Zoning -The attachment of special conditions to a rezoning which are not spelled out in the text of this ordinance. Along with the devices to insure compliance, it may bind the developer to the conditions through filing a covenant.
3. Covenant -A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded. They can be used in rezoning restrictions to bind the land owner to use his property in a specific manner.
4. Density -The number of dwelling units permitted in a development.
5. Gross Land Area -All of the land area involved in the PRD.
6. Flexible Regulations -Regulations which apply general standards to property with final decisions made shortly before redevelopment occurs. This has been a long-standing practice under subdivision regulations and increasingly is being applied under zoning. The intent is to widen the range of options available to developers and thereby lead to a better design. They recognize that the appropriate use for every parcel cannot be predetermined, as a result policies and criteria for decision making are established often through performance standards, rather than specified uses and standards. Under most flexible techniques, public officials or bodies have discretion in their decisions and frequently negotiate with developers before final approval is given. Thus while development options are broad, development permission, once granted may be quite narrow.
7. Net Land Area -The gross land area minus the area set aside for streets, drives and parking.
8. PRD - Planned Residential Development.

9. Site Development Plan -A plan drawn to scale showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes, at a minimum, lot lines, streets, building sites, reserved open space, buildings, topography, landscaping (including existing trees and landscape), location of existing and proposed utility lines and etc.
10. Unified Building Plan -A plan consisting of architectural renderings and elevations of all types of proposed structures, including but not limited to, habitable structures, accessory structures, fences, signage, retaining walls, etc. This plan should include construction types as well as exterior building design materials.
11. Zero Lot Line - A development approach in which a building is sited on one or more lot lines with no yard. It is possible for three or four sides of the building to be on the lot lines. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

### C. USES PERMITTED

1. All residential uses are permitted in the PRD subject to the approval of the Board of Mayor and Aldermen. Each development proposal shall be evaluated on its own merits and no PRD shall be considered as setting a precedent. The applicant shall submit the intended residential use to the City Board and they shall determine if it is appropriate for the area. No residential uses are excluded from consideration. No uses are permitted outright, and are subject to review and prior approval. The Planning Commission and/or Board of Mayor and Aldermen may require a deed covenant and/or Homeowners Association Agreement and its bylaws, to enforce the approved uses.
2. Churches, schools, parks, playgrounds and community buildings.
3. Accessory uses and buildings customarily incidental and subordinate to the above.
4. Other Uses, including retail and/or office uses, which in the opinion of the Board of Mayor and Aldermen, are: 1) an integral part of the planned residential development; 2) of a neighborhood scale and serve the needs of the immediate area; and 3) would not be injurious to the neighborhood.

### D. AREA REGULATIONS

#### I. REQUIRED YARD AREAS

The regulations governing the base zoning district shall apply for all yard requirements. The City Board may permit zero lot lines.

#### 2. LOT WIDTH

- a. All lot widths for residential dwelling units shall be determined on the site plan.
- b. All other uses shall have a minimum lot width of one hundred (100) feet at the front building line.

### 3. DENSITY

- a. The number of dwelling units permitted in the PRD shall be determined by the following formula:

A = Gross Land Area

B = Base Zoning District (The following densities shall be used for the appropriate base zoning districts)

R-1 = 4 Units/Acre

R-1A = 4 Units/Acre

R-2 = 6 Units/Acre

R-3 = 8 Units/Acre

N = Number of dwelling units permitted.

$A \times B = N$

The City Board may allow an increase up to fifty percent (50%) in the permitted densities of those PRDs that have a base zoning district of either R-1, R-1A, R-2 or R-3.

- b. All other uses shall be governed by the regulations established for the base zoning district.

#### E. MAXIMUM HEIGHT REGULATIONS

The maximum height allowed in the PRD shall be determined on a site by site basis. The City Board can approve building heights that exceed the established requirements of the base zone. In doing so they may place additional lot and yard requirements on the development.

#### F. OFF-STREET PARKING

As regulated in Chapter 3, Section 11-307

#### G. SCREENING AND LANDSCAPING

1. A minimum of forty percent (40%) of the total land area shall be set aside as open space devoted to planting, patios, walkways and recreation areas.
2. All open areas shall be landscaped as approved by the City Board.
3. All fencing shall be of a wood, masonry material, vinyl, aluminum and/or wrought iron.

#### H. ADMINISTRATION PROCEDURES FOR PLANNED RESIDENTIAL DEVELOPMENT

In establishing a Planned Residential Development District in accordance with this section the following shall be required:

1. Pre submission conference with the Planning Staff;
2. A comprehensive site plan containing the following;

- a) Name of the development.
- b) Name and address of developer.
- c) Name, address and telephone number of designer
- d) Date, north arrow, and scale.
- e) Location of existing property lines, streets, buildings, easements and utility lines.
- f) Location and dimensions of proposed streets, easements, utilities, structures and lot lines.
- g) Proposed land uses and their locations.
- h) Off-street parking.
- i) Recreational areas.
- j) Existing and finished contours
- k) Any other information as may be required by the Planning Commission.

3. Unified Building Plan

4. Drainage Plan;

5. Landscape Plan;

6. Restrictive Covenants:

7. Homeowner's association agreements and bylaws when applicable.

- I. Every Planned Residential Development District approved under these provisions shall be considered as an amendment to the zoning ordinance. In approving the PRD District the City Board may impose conditions relative to the standard permit or certificate of occupancy that is issued for the use of the land and/or any structure which is part of the said district and such conditions shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.
- J. All PRD's approved in accordance with the provisions of this Ordinance in its original form or by subsequent amendments shall be referenced on the Official Zoning Map and a list of such PRDs together with the category of uses permitted shall be maintained in the office of the Building and Codes Department.
- K. If favorable action is taken by the City Board on the petition for rezoning the developer shall have one (1) year after the effective date of the PRD district rezoning to start construction. If construction has not been started in that time period the developer has one (1) month from the end of the time period to submit the PRD for re-approval. If the developer does not resubmit the PRD, the property shall automatically revert to the original zoning classification.
- L. Any unauthorized deviation from the approved site plan shall constitute a violation of the building permit authorizing construction of the development. In such cases where revisions would constitute a minor change in the site plan, the Planning Director shall have the authority to authorize such changes. In all instances where a substantial change is requested or where there is any question of the magnitude or consequence of the proposed revision, such revisions shall be submitted to the Planning Commission and City Board for approval.

11-505. R-P (Residential-Professional) Districts. The Residential-Professional District is intended for use in those areas of Milan experiencing transition from exclusively residential usage. This district allows certain uses to be established that are determined not to be intrusive or detrimental to the residential character of these areas, but instead allow for redevelopment of former residential structures into service and professional uses that can successfully mix with existing development. Commercial establishments are allowed on a limited basis, but only those uses determined to preserve the overall residential character of an area while allowing acceptable redevelopment. The district will also serve as a buffer between commercial section of the City and those areas still exclusively residential.

Within the R-P (Residential-Professional) Districts as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted.

- (a) Single and Multiple-Family dwellings and apartments.
- (b) Townhouses. Provided the site plans are reviewed and approved by the Planning Commission. The Planning Commission shall have the power to require screening adjacent uses, adequate parking, access for fire protection and service vehicles and to assure that the maximum density standards are met.
- (c) Retail sales:
  - i. Bakeries (546)
  - ii. Dairy Products (545)
  - iii. Furniture, home furnishings and equipment (57), limited to Household appliances (572), Radios, televisions, and music supplies (573)
  - iv. Drug and proprietary (591)
  - v. Other retail trade, including Florists; Cigars and cigarettes; Newspapers and magazines; Cameras and photographic supplies; Gifts, novelties and souvenirs; Optical goods. (599)
  - vi. Book and Stationary (594)
  - vii. Eating places (5810)
- (d) Services:
  - i. Finance, Insurance and Real Estate Services (61)
  - ii. Personal Services (62), except Funeral and Crematory Services (624)

- iii. Business Services (63), except Dwelling and other building services (634), Warehousing and storage services (637), Automobile and truck rental services (6397)
  - iv. Repair Services (64), limited to Radio and television repair services (6492) and Watch, clock, and jewelry repair services (6493).
  - v. Professional Services (65), except Sanitariums, convalescent and rest home services (6516), Medical clinic out-patient services (6517), and Other medical and health services, NEC (6519)
  - vi. Educational Services (68)
  - vii. Miscellaneous Services (69)
  - viii. Governmental Services (67), except Correctional Institutions (674) and Military bases and reservations (675)
- (e) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided that they shall not be placed within the street right-of-way, nor shall they be lighted by flashing or rotating lights.
- (f) Any accessory use or building customarily incidental to the above permitted use.

2. Uses Permitted on Appeal

- (a) Any other use which in the opinion of the Board of Zoning Appeals is similar in character and not detrimental to the neighborhood.

3. Uses Prohibited.

Any use not specifically permitted or permitted on appeal in this Section.

4. Regulations Controlling Lot Area, Lot Width, Yards, Building Coverage and Building Height.

- (a) Minimum required lot area.

(1) Dwellings (single and multiple family)	6,000 Square feet for the first dwelling unit plus 2,000 sq. ft. for each additional dwelling unit.
(2) Churches	15,000 sq. ft or 200 sq. ft. of lot area per auditorium seat whichever is greater.
(3) Other uses	No minimum requirement.

- (b) Minimum required lot width at the building line.
  - (1) Dwellings and apartments 50 feet
  - (2) Churches 60 feet
  - (3) Other uses No minimum requirements.
  
- (c) Minimum required front yard
  - (1) Dwellings and apartments 20 feet
  - (2) Churches 30 feet
  - (3) Other uses 20 feet
  
- (d) Minimum required rear yard.
  - (1) Dwellings and apartments 10 feet
  - (2) Other uses 20 feet
  
- (e) Minimum required side yard on each side of lot.
  - (1) Dwellings and apartments (one and two story) 10 feet
  - (2) Three story 15 feet
  - (3) Churches 15 feet
  - (4) Other uses None required, however, if buildings to not have common or adjoining walls there shall be a side yard of at least five (5) feet.
  - (5) On lots adjoining to a residential district, all buildings shall be located so as to comply with the side yard requirements of the

adjacent residential district on the side adjoining the residential district.

- (f) Minimum required side yard for side facing street on corner lots 30 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures.
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.
  - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 ½) stories or twenty-five (25) feet in height.
  - (3) No accessory building shall exceed two (2) stories in height.
  - (4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable for human occupancy may exceed the height provisions of this ordinance provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

## CHAPTER 6

### PROVISIONS GOVERNING BUSINESS DISTRICTS

11-601. B-1 (Local Business) Districts. Within the B-1 (Local Business) Districts as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted.

- (a) Retail sales: bakery and dairy products, drugs and pharmaceuticals; florist shops, gift shops; book stores; groceries; hardware; hobby shops; and camera shops and fire works pursuant to the provisions of Title 7, Sections 7-401, et. Seq. Of the Ordinances of the City of Milan.
- (b) Services: banks; savings and loan associations; barber shops; beauty shops; funeral homes; clinics; automobile service stations; laundry and dry cleaning pick-up stations and self service laundry and dry cleaning facilities; medical offices; radio and television sales and services; shoe repair; and restaurants.
- (c) Churches; and federal, state and municipal uses.
- (d) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided that they shall not be placed within the street right-of-way, nor shall they be lighted by flashing or rotating lights.
- (e) Any accessory use or building customarily incidental to the above permitted use.

2. Uses Permitted on Appeal.

- (a) Any other use which in the opinion of the Board of Zoning Appeals is similar in character and not detrimental to the neighborhood.
- (b) Telecommunication Structures and Equipment subject to the following standards as determined by the Board of Zoning Appeals:
  - 1. Plan Requirement.
    - (a) Prior to the issuance of a building permit for the construction of a tower or the utilization of an existing utility structure for telecommunications purposes, a site plan shall be submitted and reviewed in accordance to with the provisions of the Site Plan Review Requirements in the Milan Zoning Ordinance and the following provisions;

- (b) All new telecommunications structures not on an existing utility structure shall show the location of the tower and accessory structure and the location of two (2) future antennae arrays and accessory structures.
  - (c) A letter of intent from the owner allowing for the shared use of the tower.
  - (d) A letter from a professional engineer certifying that the tower's height and design complies with these regulations and all applicable structural standards and, also, describes the tower's capacity which includes the number and type of antennas that can be accommodated.
  - (e) A letter from a qualified professional, independent of the applicant, indicating why all existing towers within one (1) mile radius of the proposed tower cannot be utilized.
2. That a documented attempt has been made by the applicant to make shared use of existing or planned Telecommunications or suitable utility structures in the City and that such shared use has been denied. A date of such contact, and the form and content of such contact.
  3. That shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared site. The Board of Zoning Appeals may consider expert testimony to determine whether the fee and costs are reasonable. Costs exceeding new tower development are presumed reasonable.
  4. That any shared use of a suitable existing utility or Telecommunications Structures is technically impractical as supported by technical documentation from a qualified professional, independent of the applicant.
  5. That any proposed Telecommunications Structure may not be situated within one (1) miles of any existing Telecommunications Structure or any utility structure which is suitable for use as determined by standards in this Ordinance.
  6. Structures may not be situated closer than the height of the tower plus ten (10) feet to any undeveloped or non-subdivided residential property lot lines, on which no residential or other accessory

structures exist and 500 feet from any lot line that contains an existing residential structure or residential accessory bldg."

7. That Telecommunications Structures may not be situated such that a collapse from any cause may pose a hazard to any residential or other structures or vehicular or pedestrian traffic.
8. That all towers shall be situated a distance equal to their height plus ten (10) feet from the property line.
9. All new telecommunications structures not on an existing utility structure within the City of Milan shall be designed to accommodate a minimum of three (3) antenna arrays.
10. All telecommunication structures on an existing utility structure shall be designed to accommodate a minimum of two (2) antenna arrays.
11. That a minimum (6) six-foot tall security fence be erected around all parts of the tower that is accessible from the ground. Fences must have barbed wire along the top of the fence. Said fence shall comply with all other city requirements for fences.
12. Towers: No artificially lighted tower shall be permitted in the City of Milan. If the Federal Aviation Administration (FAA) requires the proposed tower to be lighted, then the applicant shall be required to reduce the height of the tower or move the tower to eliminate the requirement for lighting.
13. Structures: Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination offers only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent properties and public streets.
14. Any telecommunications structure that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall provide the City with a copy of the notice of intent to cease operations that must be submitted to the FCC and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and any accessory structure(s). In case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.
15. All freestanding towers and utility structures shall have a four (4) foot wide landscaping strip around the perimeter of the security fence. The landscaping strips shall be installed for the permanent

year round protection of adjacent property owners by visually shielding the contents at the base of the tower from adjoining property owners. The landscaping strip shall consist of a combination of trees, shrubs, vines and other ground covers that are expected to grow to a height of eight (8) feet. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or there are existing physical features that meet the intent and purpose of this section.

16. The location and design of driveways and/ or access easements to the facility from a public street shall be depicted on the site plan and shall be approved by the Planning Commission.
17. That the Board of Zoning Appeals may not allow any Telecommunication Structures except in compliance with the above standards.

3. Uses Prohibited. Any use not specifically permitted or permitted on appeal in this Section.

4. Regulations controlling Lot Area, Lot Width, Yards, Building Coverage and Building Height.

(a) Minimum required lot area.

- |                |   |
|----------------|---|
| (1) Churches   | 15,000 sq. ft. or 200 sq. ft. of lot area per auditorium seat whichever is greater. |
| (2) Other uses | No minimum requirement.   |

(b) Minimum required lot width at the building line.

- |                               |                          |
|-------------------------------|--------------------------|
| (1) Gasoline service stations | 130 feet                 |
| (2) Churches                  | 60 feet                  |
| (3) Other uses                | No minimum requirements. |

(c) Minimum required front yard.

- |                               |         |
|-------------------------------|---------|
| (1) Gasoline service stations | 25 feet |
|-------------------------------|---------|

- (2) Churches 30 feet
- (3) Other uses 20 feet
- (d) Minimum required rear yard.
  - (1) All uses 20 feet
- (e) Minimum required side yard on each side of lot.
  - (1) Churches 15 feet
  - (2) Other uses None required, however, if buildings do not have common or adjoining walls there shall be a side yard of at least five (5) feet.
  - (3) On lots adjoining to a residential district, all buildings shall be located so as to comply with the side yard requirements of the adjacent residential district on the side adjoining the residential district.
- (f) Minimum required side yard for side facing street on corner lots  
30 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures.
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.
  - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five (25) feet in height.
  - (3) No accessory building shall exceed two (2) stories in height.
  - (4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable for human occupancy may

exceed the height provisions of this ordinance provided they comply with all other codes and ordinances, and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

11-602. B-2 (Retail Business) Districts. Within the B-2 (Retail Business) Districts as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted

- (a) Retail sales: automobile sales; automobile parts; bakery and dairy products; drugs and pharmaceuticals; clinics; florist shops; gift shops; book stores; newspaper stand; groceries; hardware; boats and boating equipment; sporting goods; mobile home sales; paint and wallpaper stores; agricultural implements; furniture; household appliances; floor coverings and draperies; nursery and greenhouses; and beverage stores; and fireworks pursuant to the provisions of Title 7, Section 7-401, et seq. of the Ordinances of the City of Milan.
- (b) Services: automobile repair; animal hospital or veterinarian clinic; commercial recreation; banks; savings and loan associations; barber shops; beauty shops; funeral homes; automobile service stations; laundry and dry cleaning establishments; business and professional offices; radio and television sales and service; shoe repair; motels and hotels; restaurants; trucking terminals; and moving companies.
- (c) Manufacturing, processing and fabrication: Manufacturing incidental to retail business or service where products are sold on the premises by producers and where not more than ten (10) operatives are employed in such manufacturing.
- (d) Churches; and federal, state and municipal uses.
- (e) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided that they shall not be placed within the street right-of-way, nor shall they be lighted by flashing or rotating lights.
- (f) Any accessory use or building customarily incidental to the above permitted uses.

2. Uses Permitted on Appeal.

- (a) Any other use which in the opinion of the Board of Zoning Appeals is similar in character and not detrimental to the neighborhood.
- (b) Telecommunication Structures and Equipment subject to the following standards as determined by the Board of Zoning Appeals:
  - 1. Plan Requirement.

- (a) Prior to the issuance of a building permit for the construction of a tower or the utilization of an existing utility structure for telecommunications purposes, a site plan shall be submitted and reviewed in accordance to with the provisions of the Site Plan Review Requirements in the Milan Zoning Ordinance and the following provisions;
  - (b). All new telecommunications structures not on an existing utility structure shall show the location of the tower and accessory structure and the location of two (2) future antennae arrays and accessory structures.
  - (f) A letter of intent from the owner allowing for the shared use of the tower.
  - (g) A letter from a professional engineer certifying that the tower's height and design complies with these regulations and all applicable structural standards and, also, describes the tower's capacity which includes the number and type of antennas that can be accommodated.
  - (h) A letter from a qualified professional, independent of the applicant, indicating why all existing towers within one (1) mile radius of the proposed tower cannot be utilized.
2. That a documented attempt has been made by the applicant to make shared use of existing or planned Telecommunications or suitable utility structures in the City and that such shared use has been denied. A date of such contact, and the form and content of such contact.
  3. That shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared site. The Board of Zoning Appeals may consider expert testimony to determine whether the fee and costs are reasonable. Costs exceeding new tower development are presumed reasonable.
  4. That any shared use of a suitable existing utility or Telecommunications Structures is technically impractical as supported by technical documentation from a qualified professional, independent of the applicant.
  5. That any proposed Telecommunications Structure may not be situated within one (1) miles of any existing Telecommunications

Structure or any utility structure which is suitable for use as determined by standards in this Ordinance.

6. Structures may not be situated closer than the height of the tower plus ten (10) feet to any undeveloped or non-subdivided residential property lot lines, on which no residential or other accessory structures exist and 500 feet from any lot line that contains an existing residential structure or residential accessory bldg."
7. That Telecommunications Structures may not be situated such that a collapse from any cause may pose a hazard to any residential or other structures or vehicular or pedestrian traffic.
8. That all towers shall be situated a distance equal to their height plus ten (10) feet from the property line.
9. All new telecommunications structures not on an existing utility structure within the City of Milan shall be designed to accommodate a minimum of three (3) antenna arrays.
11. All telecommunication structures on an existing utility structure shall be designed to accommodate a minimum of two (2) antenna arrays.
11. That a minimum (6) six-foot tall security fence be erected around all parts of the tower that is accessible from the ground. Fences must have barbed wire along the top of the fence. Said fence shall comply with all other city requirements for fences.
12. Towers: No artificially lighted tower shall be permitted in the City of Milan. If the Federal Aviation Administration (FAA) requires the proposed tower to be lighted, then the applicant shall be required to reduce the height of the tower or move the tower to eliminate the requirement for lighting.
13. Structures: Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination offers only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent properties and public streets.
14. Any telecommunications structure that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall provide the City with a copy of the notice of intent to cease operations that must be submitted to the FCC and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and any accessory structure(s). In case

of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.

15. All freestanding towers and utility structures shall have a four (4) foot wide landscaping strip around the perimeter of the security fence. The landscaping strips shall be installed for the permanent year round protection of adjacent property owners by visually shielding the contents at the base of the tower from adjoining property owners. The landscaping strip shall consist of a combination of trees, shrubs, vines and other ground covers that are expected to grow to a height of eight (8) feet. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or there are existing physical features that meet the intent and purpose of this section.
16. The location and design of driveways and/ or access easements to the facility from a public street shall be depicted on the site plan and shall be approved by the Planning Commission.
17. That the Board of Zoning Appeals may not allow any Telecommunication Structures except in compliance with the above standards.

3. Uses Prohibited. Any use not specifically permitted or permitted on appeal in this Section.

4. Regulations Controlling Lot Area, Lot Width, Yards, Building Coverage and Building Height.

(a) Minimum required lot area.

- |     |            |  |
|-----|------------|--|
| (1) | Churches   | 15,000 sq. ft. or 200 sq. ft. of lot area per auditorium seating space whichever is greater. |
| (2) | Other uses | No minimum requirement.  |

(b) Minimum required lot width at the building line.

- |     |                           |                          |
|-----|---------------------------|--------------------------|
| (1) | Gasoline service stations | 120 feet                 |
| (2) | Churches                  | 100 feet                 |
| (3) | Other uses                | No minimum requirements. |

- (c) Minimum required front yard
  - (1) All uses 25 feet
- (d) Minimum required rear yard.
  - (1) All uses 20 feet
- (e) Minimum required side yard on each side of lot
  - (1) Churches 25 feet
  - (2) Other uses None required, however, if buildings do not have common or adjoining walls, there shall be side yard of at least five (5) feet.
  - (3) On lots adjoining a residential district, all buildings shall be located so as to comply with the side yard requirements of the adjacent residential district on the side adjacent to the residential district.
- (f) Minimum required side yard for side facing street on corner lots.
  - 25 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures.
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet, not to exceed sixty-five (65) feet, however.
  - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five (25) feet in height.
  - (3) No accessory building shall exceed two (2) stories in height.
  - (4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable for human occupancy may

exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

11-603. B-3 (General Business) District. Within the B-3 (General Business) District as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply:

1. Uses Permitted

- (a) Retail sales: bakery and dairy products; drugs and pharmaceuticals; florist shops; gift shops; book stores; groceries; hardware; clothing and dry goods; hobby shops; camera shops; sporting goods; paint and wallpaper stores; furniture; household appliances; floor coverings and draperies; hats; shoes; air conditioning equipment; automobile parts; tires; jewelry stores; cloth shops; musical instruments; record and phonographs; motorcycle and bicycles sales and service; department stores and general merchandise; and variety stores; automobile service stations; and beverage stores; and fireworks pursuant to the provisions of Title 7, Section 7-401, et seq. of the Ordinances of the City of Milan.
- (b) Services: banks; saving and loan associations; barber shops; beauty shops; clinics; laundry and dry cleaning pick up stations; self service laundry and dry cleaning; printing; business and professional offices; radio and television sales and service; shoe repair; hotels and motels; restaurants; photography studios; upholstery shops; commercial recreation; movie theaters and billiard parlors; business schools; art and music schools; driving schools, correspondence schools; beauty and barber schools; dancing schools; tailoring and dressmaking; and watch repair.
- (c) Churches, clubs and lodge halls, federal state and municipal uses.
- (d) Advertising signs and advertising structures or lights for illuminating signs or buildings provided that they shall not be placed within the street right-of-way, nor shall they be lighted by flashing or rotating lights.
- (e) Any accessory use or building customarily incidental to the above permitted uses.

2. Uses Permitted on Appeal

- a. Any other use which in the opinion of the Board of Zoning Appeals is similar in character to the permitted uses and is not detrimental to the neighborhood.
- b. Billboard signs as defined by this ordinance and subject to the following conditions:
  - (1) Billboard signs shall not be subject to the bulk (lot) requirements of the district in which they are located. Billboard signs shall,

however, meet all yard requirements relative to rights-of-way, property lines and district zone lines of the district. Billboard signs shall not be less than fifty (50) feet from any other structure on the lot which it is located.

- (2) Billboard signs shall not exceed thirty-five (35) feet in height as measured from the street grade of the closest public way, and shall be located a distance of their height plus ten (10) feet from any lot lines or street rights-of-way.
- (3) Billboard signs on the same street facing the same traffic flow shall not be placed closer than one thousand (1,000) feet.
- (4) Billboard signs can be double-faced and each side shall be considered as facing traffic flow flowing in the opposite direction.
- (5) Billboard signs may not be stacked.
- (6) The surface area of any billboard sign shall not exceed three hundred (300) square feet, inclusive of borders, and trim.
- (7) Billboard signs shall be located on minor arterial streets or larger capacity streets as determined by the Major Road Plan.
- (8) At the intersection of two (2) streets, double-faced or single-faced signs at right angles to and, therefore, facing traffic on one street may be situated closer than one thousand (1,000) feet, but not less than five hundred (500) feet, to a similarly positioned sign across the street at right angles to and, therefore facing traffic on the other street.
- (9) Structures for billboard signs shall be of vertical (cantilever) construction and where the back is visible, it shall be suitably covered to present a neat and clean appearance.
- (10) The lot area of billboard signs shall be kept clean and all scrub brush, tall grass, etc., shall be maintained in accordance with all other ordinances relating thereto.
- (11) Billboard signs shall be assessed a building permit fee.
- (12) As part of plans review, plans for billboard signs shall be accompanied by a stamped engineering drawing to assure the wind load and structural integrity of the sign.

3. Uses Prohibited. Any use not specifically permitted or permissible on appeal in this Section.
4. Regulations Controlling Lot Area, Lot Width, Yards, Building Coverage and Building Height. No minimum requirements.

## CHAPTER 7

### PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

11-701. M-1 (Light Industrial) Districts. Within the M-1 (Light Industrial) Districts as shown on the Zoning Map of Milan, Tennessee, the following regulations shall apply.

#### 1. Site Plan Prerequisite to Approval (Procedures)

- (a) Before a permit is issued for any use permitted by right or on appeal the site plan of the proposed development shall be reviewed and approved by the Milan City Planning Commission. The planning commission shall have the power to impose conditions regarding the location of buildings on the site, the location and design of parking and access facilities, fencing and screening, noise abatement, outdoor advertising and other features affecting the character of the area and the compatibility of the proposed use to existing nearby uses.
- (b) In order that the planning commission may make an accurate determination of the character of the proposed use the applicant shall submit an accurately and legibly drawn site plan showing proposed buildings, parking and access facilities, use of proposed buildings, landscaping, location and general design of outdoor advertising, and the front (street) elevation of proposed buildings. The planning commission may make other reasonable requirements for information when necessary.
- (c) The planning commission shall meet and act upon any application within thirty-five (35) days from the date of the first meeting at which properly prepared site plans are presented. Failure to act shall constitute approval. When an application is denied, the planning commission shall state the reasons for such action in writing and they shall be entered in the official records of the planning commission.

#### 2. Uses Permitted.

- (a) Retail and wholesale sales: automobile sales and service; automobile parts; agricultural implement sales and service; lawnmower sales and service; lumber and building materials; paint; mobile home sales and service; boats and boating equipment sales and service; sporting goods; greenhouse and nursery products; hardware; motorcycles sales and service; and, welding supplies.
- (b) Services: Animal hospitals and clinics; automobiles service stations; auto repair garages; truck stops; barber shops; beauty shops; laundry and dry cleaning; restaurants; truck terminals; printing; tire repair and recapping;

pest extermination; sign shops; upholstery shops; plumbing and heating supply; outdoor advertising signs and structures; sheet metal shops; and warehousing; including wholesale sales which are predominately an enclosed warehouse operation, but not including gravel, sand, fertilizers, or other nuisances producing goods.

- (c) Manufacturing, processing or fabrication: canned or preserved fruits or vegetables; bakery products; bottling plants; candy and confectioneries; apparel and other finished products made from fabrics; drugs; footwear, except rubber; leather gloves and mittens; luggage goods; glass products, made of purchased glass; communication equipment, scientific and controlling instruments; photographic and optical goods; watches and clocks; and jewelry, silverware and plated ware.
- (d) Federal, state and municipal uses.
- (e) Research laboratories.
- (f) Accessory uses customarily incidental to any aforementioned permitted use.
- (g) Telecommunication Structures and Equipment subject to the following standards as determined by the Board of Zoning Appeals:
  - 1. Plan Requirement.
    - (a) Prior to the issuance of a building permit for the construction of a tower or the utilization of an existing utility structure for telecommunications purposes, a site plan shall be submitted and reviewed in accordance to with the provisions of the Site Plan Review Requirements in the Milan Zoning Ordinance and the following provisions;
    - (b). All new telecommunications structures not on an existing utility structure shall show the location of the tower and accessory structure and the location of two (2) future antennae arrays and accessory structures.
      - (i) A letter of intent from the owner allowing for the shared use of the tower.
      - (j) A letter from a professional engineer certifying that the tower's height and design complies with these regulations and all applicable structural standards and, also, describes the tower's capacity which includes the number and type of antennas that can be accommodated.

- (k) A letter from a qualified professional, independent of the applicant, indicating why all existing towers within one (1) mile radius of the proposed tower cannot be utilized.
- 2. That a documented attempt has been made by the applicant to make shared use of existing or planned Telecommunications or suitable utility structures in the City and that such shared use has been denied. A date of such contact, and the form and content of such contact.
- 3. That shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared site. The Board of Zoning Appeals may consider expert testimony to determine whether the fee and costs are reasonable. Costs exceeding new tower development are presumed reasonable.
- 4. That any shared use of a suitable existing utility or Telecommunications Structures is technically impractical as supported by technical documentation from a qualified professional, independent of the applicant.
- 5. That any proposed Telecommunications Structure may not be situated within one (1) miles of any existing Telecommunications Structure or any utility structure which is suitable for use as determined by standards in this Ordinance.
- 6. Structures may not be situated closer than the height of the tower plus ten (10) feet to any undeveloped or non-subdivided residential property lot lines, on which no residential or other accessory structures exist and 500 feet from any lot line that contains an existing residential structure or residential accessory bldg."
- 7. That Telecommunications Structures may not be situated such that a collapse from any cause may pose a hazard to any residential or other structures or vehicular or pedestrian traffic.
- 8. That all towers shall be situated a distance equal to their height plus ten (10) feet from the property line.
- 9. All new telecommunications structures not on an existing utility structure within the City of Milan shall be designed to accommodate a minimum of three (3) antenna arrays.

10. All telecommunication structures on an existing utility structure shall be designed to accommodate a minimum of two (2) antenna arrays.
11. That a minimum (6) six-foot tall security fence be erected around all parts of the tower that is accessible from the ground. Fences must have barbed wire along the top of the fence. Said fence shall comply with all other city requirements for fences.
12. Towers: No artificially lighted tower shall be permitted in the City of Milan. If the Federal Aviation Administration (FAA) requires the proposed tower to be lighted, then the applicant shall be required to reduce the height of the tower or move the tower to eliminate the requirement for lighting.
13. Structures: Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination offers only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent properties and public streets.
14. Any telecommunications structure that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall provide the City with a copy of the notice of intent to cease operations that must be submitted to the FCC and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and any accessory structure(s). In case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.
15. All freestanding towers and utility structures shall have a four (4) foot wide landscaping strip around the perimeter of the security fence. The landscaping strips shall be installed for the permanent year round protection of adjacent property owners by visually shielding the contents at the base of the tower from adjoining property owners. The landscaping strip shall consist of a combination of trees, shrubs, vines and other ground covers that are expected to grow to a height of eight (8) feet. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or there are existing physical features that meet the intent and purpose of this section.
16. The location and design of driveways and/ or access easements to the facility from a public street shall be depicted on the site plan and shall be approved by the Planning Commission.

17. That the Board of Zoning Appeals may not allow any Telecommunication Structures except in compliance with the above standards.

3. Uses Permitted on Appeal

- a. Any other use which, in the opinion of the Board of Zoning Appeals, is similar in character to those enumerated in Section Two (2) of this Chapter and will not be detrimental to the district in which located subject to such conditions and safeguards as may be required by the Board of Zoning Appeals.
- b. Billboard signs as defined by this ordinance and subject to the following conditions:
  - (1) Billboard signs shall not be subject to the bulk (lot) requirements of the district in which they are located. Billboard signs shall, however, meet all yard requirements relative to rights-of-way, property lines and district zone lines of the district. Billboard signs shall not be less than fifty (50) feet from any other structure on the lot which it is located.
  - (2) Billboard signs shall not exceed thirty-five (35) feet in height as measured from the street grade of the closest public way, and shall be located a distance of their height plus ten (10) feet from any lot lines or street rights-of-way.
  - (3) Billboard signs on the same street facing the same traffic flow shall not be placed closer than one thousand (1,000) feet.
  - (4) Billboard signs can be double-faced and each side shall be considered as facing traffic flow flowing in the opposite direction.
  - (5) Billboard signs may not be stacked.
  - (6) The surface area of any billboard sign shall not exceed three hundred (300) square feet, inclusive of borders, and trim.
  - (7) Billboard signs shall be located on minor arterial streets or larger capacity streets as determined by the Major Road Plan.
  - (8) At the intersection of two (2) streets, double-faced or single-faced signs at right angles to and, therefore, facing traffic on one street may be situated closer than one thousand (1,000) feet, but not less than five hundred (500) feet, to a similarly positioned sign across

the street at right angles to and, therefore facing traffic on the other street.

- (9) Structures for billboard signs shall be of vertical (cantilever) construction, and where the back is visible, it shall be suitably covered to present a neat and clean appearance.
- (10) The lot area of billboard signs shall be kept clean and all scrub brush, tall grass, etc., shall be maintained in accordance with all other ordinances relating thereto.
- (11) Billboard signs shall be assessed a building permit fee.
- (12) As part of plans review, plans for billboard signs shall be accompanied by a stamped engineering drawing to assure the windload and structural integrity of the sign.
- (13) Abandoned billboard signs will be considered illegal and subject to removal at the expense of the owner after a twelve (12) month period of abandonment has expired and due notice has been given. An abandoned sign means one or more of the following classifications:
  - (a) A sign in substantial need of repair;
  - (b) A sign whose face or faces is damaged fifty percent (50%) or more; or
  - (c) A sign which displays only a message of its availability for advertising purposes.

4. Uses Prohibited. Any use not specifically permitted or permissible on appeals in this Chapter.

5. Regulations Controlling Yards and Building Height.

- (a) Minimum required lot area.           None
- (b) Minimum required front yard.
  - (1) All uses                               20 feet
- (c) Minimum required rear yard.
  - (1) All uses                               20 feet

- (d) Minimum required side yard on each side of lot.
  - (1) All uses 20 feet except on lots adjacent to a residential district all buildings shall be located so as to comply with side yard requirements of adjacent residential district on the side adjacent to the residential district.
- (e) Notwithstanding the above provision, no yard will be required for that part of a lot which fronts on a railroad siding.
- (f) Maximum permitted height of structures.
  - (1) No building shall exceed six (6) stories or seventy-five (75) feet in height.
  - (2) Free standing poles, spires, towers, antennae, and similar structures may exceed the height provisions provided they comply with the provisions of all other codes and ordinances, and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property line.

## CHAPTER 8

### PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS

#### ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

##### Section A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-211; Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Milan, Tennessee Mayor and Board of Aldermen does ordain as follows:

##### Section B. Findings of Fact

1. The Milan Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).
2. Areas of Milan are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

##### Section C. Statement of Purpose

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### Section D. Objectives

The objectives of this Ordinance are:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

#### ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

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

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

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

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and 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.

"Building", means any structure built for support, shelter, or enclosure for any occupancy or storage (See "Structure")

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

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

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the 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" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

"Existing Structures" see "Existing Construction".

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

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

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

"Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Floor" means the top 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. The term does not include the floor of a garage used solely for parking vehicles.

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

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

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on 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.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle", unless such transportable structures are placed on a site for 180 consecutive days or longer.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see "Base Flood".

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

"Structure", for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty 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" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

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

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### ARTICLE III. GENERAL PROVISIONS

#### Section A. Application

This Ordinance shall apply to all areas within the incorporated area of Milan, Tennessee.

#### Section B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the Milan, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47053C0310D, 47053C0330D, 47053C0320D, 47053C0336D, 47053C0340D, 47053C0410D, and 47053C0450D dated November 5, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

#### Section C. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

#### Section D. Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Section G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Milan, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

Section H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Milan, Tennessee from taking such other lawful actions to prevent or remedy any violation.

ARTICLE IV. ADMINISTRATION

Section A. Designation of Ordinance Administrator

The Building Official is hereby appointed as the Administrator to implement the provisions of this Ordinance.

Section B. Permit Procedures

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale

and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage

- a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- c. Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article IV. Section B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the Administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Section C. Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to:

1. Review of all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
5. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Article IV. Section B.
6. Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Article IV. Section B.
7. When flood proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Article IV. Section B.
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FIRM meet the requirements of this Ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All

applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV, Section B.

10. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

## ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

### Section A. General Standards

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance; and,
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.

## Section B. Specific Standards

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

1. Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Article V. Section B.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV. Section B.

3. Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

- 1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 2) The bottom of all openings shall be no higher than one foot above the finish grade; and
  - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Article V. Section B. of this Ordinance.
4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - 1) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
  - 2) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.
- c. Any manufactured home, which has incurred substantial damage as the result of a flood or that has substantially improved, must meet the standards of Article V. Section B. 4 of this Ordinance.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed on identified flood hazard sites must either:

- 1) Be on the site for fewer than 180 consecutive days;
- 2) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.
- 3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

5. Standards for Subdivisions

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five acres in area.

Section C. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and With Floodways Designated

Located within the Areas of Special Flood Hazard established in Article III. Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the

community. A registered professional engineer must provide supporting technical data and certification thereof.

2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Article V.

Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Article III. Section B, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article V. Section B.

Section E. Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Article III, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Article III, then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Article V. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:
2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than

three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article V, Section B, and "Elevated Buildings".

Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1') foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article V, Section B, and Elevated Buildings.
2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1') foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Administrator as set forth above and as required in Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
4. The Administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Article III. Are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Article IV. And Article V. Section A. shall apply.

Section H. Standards for Unmapped Streams

Located within Milan, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with Article IV.

## ARTICLE VI. VARIANCE PROCEDURES

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Milan, Tennessee.

### Section A. Board of Zoning Appeals

1. The Milan Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
2. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a. The danger that materials may be swept onto other property to the injury of others;
  - b. The danger to life and property due to flooding or erosion;
  - c. The susceptibility of the proposed facility and its contents to flood damage;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
  - j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Floodplain Review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
  5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

#### Section B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

### ARTICLE VII. LEGAL STATUS PROVISIONS

#### Section A. Conflict with Other Ordinances

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of Milan, Tennessee, the most restrictive shall in all cases apply.

Section B. Validity

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

Section C. Effective Date

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of Milan, Tennessee, and the public welfare demanding it.

## CHAPTER 9

### EXCEPTIONS AND MODIFICATIONS

11-901. Lot of Record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this ordinance, does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance, in accordance with Section 11-1204. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.

11-902. Front Yards. The front yard requirements of this ordinance shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

11-903. Group Housing Project. In the case of a group housing project of two or more buildings to be constructed on a plat on ground not subdivided into the customary street and lots, and which will not be subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual building units in such housing projects, the application of the terms of this ordinance may be varied by the Board of Zoning Appeals in a manner that will be in harmony with the character of the neighborhood, will insure substantially the same character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this ordinance in the district in which the proposed project is to be located. However, in no case shall the Board of Zoning Appeals authorize a use prohibited in the district in which the project is to be located, or a smaller area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of this ordinance permit in such district.

## CHAPTER 10

### ENFORCEMENT

11-1001. Enforcing Officer. The provisions of this ordinance shall be administered and enforced by a Building Inspector appointed by the Board of Mayor and Aldermen who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

11-1002. Building Permits and Certificates of Occupancy.

1. Building Permit Required. It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the Building Inspector has issued a building permit for such work.
2. Issuance of Building Permit. In applying to the Building Inspector for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height, location on the lot of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the Building Inspector for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this ordinance and other ordinances of the City of Milan, Tennessee, then in force, the Building Inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the Building Inspector shall state such refusal in writing with the cause.
  - (a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.
  - (b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by that date on the project described therein.
  - (c) No building permit shall be issued for any apartments or townhouses until plan and specifications are first submitted to the Planning Commission for its review.
3. Certificate of Occupancy. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Building Inspector shall have issued a certificate of occupancy stating that such land, building or part thereof and the proposed use thereof are found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises

or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and to issue a certificate of occupancy if the land, building or part thereof and the proposed use therefore found to conform with the provisions of this ordinance; or, if such certificate is refused, to state such refusal in writing with the cause.

4. Records. A complete record of such application, sketches, and plans shall be maintained in the office of the Building Inspector.

11-1003. - Penalties. Any person violating any provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

11-1004. - Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the Building Inspector or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure or land.

## CHAPTER 11

### BOARD OF ZONING APPEALS

11-1101. Creation and Appointment. A Board of Zoning Appeals is hereby established in accordance with Section 13-7-205 of the Tennessee Code Annotated. The Board of Zoning Appeals shall consist of five (5) members, four of whom shall be appointed from the four city wards, and one who shall be the regional member on the Milan Municipal-Regional Planning Commission. The shall be appointed by the Chief Executive Officer of the City and confirmed by a majority vote of the Board of Mayor and Aldermen. The term of membership shall be five (5) years except that the initial individual appointments to the Board shall be terms of one (1), two (2), three (3), four (4), and five (5) years respectively. Vacancies shall be filled for any unexpired term by appointment by the Chief Executive Officer and confirmed by the Board of Mayor and Aldermen.

11-1102. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action thereon, which shall be a public record.

11-1103. Appeals, How Taken. An appeal to the Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board of bureau affected by any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties of interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. Any person or party may appear at the hearing and be heard in person or by agent or by attorney.

11-1104. - Powers. The Board of Zoning Appeals shall have the following powers:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision of this ordinance.
2. Special Exceptions. To hear and decide applications for special exceptions upon which the Board of Zoning Appeals is specifically authorized to pass.
3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of this

ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or condition of a piece of property the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without detriment to the public good and the intent and purpose of this ordinance.

- (a) In granting a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.
- (b) Before any variance is granted it shall be shown that circumstances are attached to the property which do not generally apply to other property in the neighborhood.

## CHAPTER 12

### AMENDMENT

11-1201. Zoning Amendment Petition. The Board of Mayor and Alderman of Milan, Tennessee may amend the regulations, restrictions, boundaries or any provision of this ordinance. Any member of the Board of Mayor and Alderman may introduce such amendment, or any official board or any other person may present a petition to the Board of Mayor and Alderman requesting an amendment or amendments to this ordinance.

11-1202. Planning Commission Review. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the City Planning Commission. If the City Planning Commission, within thirty (30) days after such submission, disapproves it shall require the favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen to become effective. If the City Planning Commission neither approves nor disapproves such proposed amendment within thirty-five (35) days after such submission, the absence of action shall be considered as approval of the proposed amendment.

11-1203. Public Hearing on Proposed Amendment. Upon the introduction of an amendment to this ordinance or upon the receipt of a petition to amend this ordinance, the Board of Mayor and Aldermen shall publish a notice of such request for an amendment together with the notice of time set for hearing by the Board of Mayor and Aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the City of Milan, Tennessee. Said hearing by the Board of Mayor and Aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice.

CHAPTER 13

LEGAL STATUS PROVISIONS

11-1301. Conflict With Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Milan, the most restrictive shall in all cases apply.

11-1302. Validity. If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance which is not of itself invalid or unconstitutional.

11-1303. Effective Date. This ordinance shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it.

Adopted and passed on second and final reading on this 13th day of April, 2010.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
RECORDER