

# **TOWN OF ERWIN**

## **T E N N E S S E E**



# **ZONING ORDINANCE**

MAY 1971

Prepared for

ERWIN PLANNING COMMISSION

Roland Bailey, Chairman

Burnie Peterson, Vice Chairman

Russell Brackins, Mayor

Clyde Griffith, Secretary

B. J. Moore

Prepared by

LOCAL PLANNING OFFICE

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Johnson City, Tennessee

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ZONING ORDINANCE  
OF THE  
TOWN OF ERWIN, TENNESSEE  
AUTHORITY

An ordinance, in pursuance of the authority granted by Sections 13-701 through 13-710 and Section 13-716, Tennessee Code Annotated, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Erwin:

ARTICLE I. SHORT TITLE

This ordinance shall be known as the "Zoning Ordinance of the Town of Erwin, Tennessee," and the map herein referred to, which is identified by the title "Zoning Map of the Town of Erwin, Tennessee," dated February 16, 1971 and all explanatory matter thereon and hereby adopted and made a part of this ordinance.

ARTICLE II. 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, flood, panic and 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 particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

### ARTICLE III. 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. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged or designed to be used or occupied.

301. Alley: A public way which affords only a secondary means of access to property and public travel, less than 20 feet in width.

302. Boarding or Rooming House: A building containing a single dwelling unit and not more than five guest rooms where lodging is provided with or without meals for compensation.

303. Buffer Strip: A plant material acceptable to the building inspector which has such growth characteristics as will provide an obscuring screen not less than six feet in height. In certain instances the Planning Commission may require additional screening features.

304. Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattel.

304.1. Principal building: A building in which is conducted the main or principal use of the lot on which said building is located.

304.2. Accessory building or use: A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use. An accessory use shall not be placed in front or side yard.

304.3. A building shall not include, among other things, structures which are constructed from or consists of the use of a tractor and/or trailer truck, a railroad car or engine of any type, any automobile, a truck bed, any other converted vehicle, a camper or trailer of any kind or a boat or ship, or any combination of the above.

305. Building Height: The vertical distance measured from the finished grade at the building line to the highest point of the roof.

306. Business Sign: A sign, which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

306.1. Condominium: A multi-unit dwelling or group of multi-unit dwellings, located on a tract or parcel of land of at least three (3) acres in area, each of whose residents (unit owners) enjoys exclusive ownership of his or her individual

unit, holding fee simple title thereto, while retaining an undivided interest as a tenant in common, in the common open areas, facilities, grounds and ways of ingress and egress which are used, maintained and administered by all of the residents of the condominium; being limited to single family dwellings, excluding mobile homes, each unit being constructed with a ground floor level and with successive levels, if there be any, constructed above the ground floor level of said unit and not over any portion of a lower level of any other unit. The units shall be connected on two (2) sides by means of common dividing structural or loadbearing wall or walls of at least ten (10) lineal feet to two other single family dwellings, or shall be the end dwelling of a series of such dwellings.

307. Dwelling Unit: One or more rooms in a building designed for occupancy by one family and having not more than one principal cooking facility.

307.1. Dwelling, Multi-family. A building or portion thereof designed for occupancy by three or more families living independently of each other.

307.2. Dwelling, Single-family. A detached building containing one dwelling unit and designed for occupancy by one family only.

307.3. Dwelling, Two-family. A detached building containing two families.

308. Family: An individual or two or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than three unrelated persons living together as one housekeeping unit using one kitchen.

309. Lot: A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.

309.1. Lot Area. The total horizontal area within the lot lines of a lot exclusive of streets, and easements of access to other property.

309.2. Lot, Corner. A lot abutting on two or more streets other than an alley, at their intersection.

309.3. Lot Line. The property line bounding a lot.

309.4. Lot Line, Front. The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

309.5. Lot Line, Rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

309.6. Lot Line, Side. Any lot line not a front or rear lot line.

309.7. Lot Width. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

310. Mobile Home: A detached single-family dwelling unit with all of the following characteristics: Designed for long-term occupancy, and containing sleeping accommodation, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels; and arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operation, location on foundation supports, connection to utilities, and the like.

311. Mobile Unit: A structure which has all of the following characteristics: Designed to be transported after fabrication on its own wheels, or on flatbed or other trailer or detachable wheels. Arriving at the site where it is to function as an office, commercial establishment, assembly hall, storage, governmental or other similar purpose and ready for use except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities and the like.

312. Mobile Home Park: Shall mean any plat of ground containing a minimum of two acres upon which two or more mobile homes are located or are intended to be located (does not include sites where unoccupied mobile homes are on display for sale).

313. Nonconforming Structure or Use: A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

314. Nursing Home: One licensed by the State of Tennessee.

315. Outdoor Advertising: An attached, free standing or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

316. 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.

317. Street: Any public or private way set aside for public travel, 20 feet or more in width. The word "street" shall include the words "road," "highway" and "thoroughfare."

318. Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

319. Total Floor Area: The area of all floors of a building including finished attic, finished basement and covered porches.

320. Yard: An open space on a lot, which is unobstructed from the ground upward except as otherwise provided in this ordinance.

320.1. Yard, Front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.

320.2 Yard, Rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a principal building.

320.3. Yard, Side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a principal building.

320.4. Yard, Street Side. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a principle building.

#### ARTICLE IV. ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the Town of Erwin, Tennessee is hereby divided into eleven (11) classes of districts as follows:

Residence - R-1 District - Low Density

Residence - RC-1 District - Low Density/Condominium

Residence - R-2 District - Medium Density

Residence - R-3 District - High Density

Residence - M-R District - Medical-Residential

Business - B-1 District - Neighborhood Business

Business - B-2 District - Arterial Business

Business - B-3 District - Central Business

Business - B-4 District - Intermediate Business

Industrial - M-1 District - Industrial

Floodway - F-1 District - Flood Control

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Town of Erwin, Tennessee," dated February 16, 1971, and all amendments thereof, which is a part of this ordinance and which is on file in the office of the Town Recorder. Unless otherwise specifically indicated on the map, the boundaries of districts are lot line or the center lines of streets or alleys or such lines extended, the corporate limit line or a line midway between the main tract of a railroad or the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries, shall be determined by the board of zoning appeals.

#### ARTICLE V. APPLICATION OF REGULATIONS

Except as herein provided:

501. Use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

502. Street Frontage. No dwelling shall be erected on a lot which does not abut on at least one street for at least forty (40) feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the lot is at least fifty (50) feet in width at the building line.

503. Corner Lots. The minimum width of a side yard along an intersecting street shall be 50 percent greater than the minimum side yard requirements of the district in which the lot is located.

504. One Principal Building on a Lot. Only one principal building and its customary accessory buildings may hereafter be erected on any lot.

505. Reduction of Lot Size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this ordinance shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

506. Yard and Other Spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

507. Conformity to Subdivision Regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Erwin Regional Planning Commission and such approval entered in writing on the plat by the secretary of the commission.

508. Customary Accessory Buildings in Residential Districts. Accessory buildings are permitted provided they are located in rear yards and not closer than five (5) feet to any property line. Accessory buildings shall also comply with the setback from the intersecting street.

509. Building Area. On any lot, within an R-I Residential District, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30) percent of the total area of such lot. In R-2 and R-3 Residential Districts, lot area occupied by all buildings including accessory buildings, shall not exceed thirty-five (35) percent of the total area of such lot.

510. Height and Density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

511. Annexations. All territory which may hereafter be annexed to the Town of Erwin, Tennessee shall be considered to be in the R-I Low Density Residential District until otherwise classified.

## ARTICLE VI. GENERAL PROVISIONS

601. Continuance of Nonconforming Uses. Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this ordinance with the following limitations:

601.1. No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

601.2. Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five (75) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

601.3. When a nonconforming use of any building or land has ceased for a period of one year, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance.

601.4. All nonconforming outdoor advertising signs, junk yards, commercial animal yards, and lumber yards not on the same lot with a plant or factory shall be required to conform to the provisions of this ordinance within three (3) years from February 16, 1971 upon official notification by the building inspector.

601.5. All owners of mobile homes that are classified as nonconforming uses, will be allowed to replace their mobile home when destroyed by acts of God or when economically unfeasible to repair (50 percent of current market value). All other requirements of the zoning district shall be met. Replacement shall occur within 45 days after the original mobile home has been removed, and a building permit will be required before the mobile home can be located on the site. A building permit can only be issued to the resident owner at the time of abandonment for his occupancy.

602. Obstruction of Vision at Street Intersections Prohibited. On a corner lot in all districts except the B-3 (Central) Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted within twenty (20) feet of the intersection of the right-of-way of streets or of streets and railroads.

603. Off-Street Automobile Parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established except in the B-3 (Central Business) District. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least two hundred square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

603.1. Automobile repair garages: One space for each regular employee plus one space for each 250 square feet of floor space used for repair work.

603.2. Churches: One space for each four (4) seats.

603.3. Clubs and lodges: One space for each three hundred (300) square feet of floor space over one thousand square feet.

603.4. Dwellings: One space for each dwelling unit.

603.5. Funeral parlors: One space for each four (4) seats in the chapel.

603.6. Gasoline service stations and similar establishments: Two (2) spaces for each bay or similar facility plus one space for each employee.

603.7. Hospitals and nursing homes: One space for each two staff or visiting doctors plus one space for each two employees and one space for each four beds, computed on the largest number of employees on duty at any period of time.

603.8. Hotel: One space for each four (4) employees plus one space for each two (2) guest rooms.

603.9. Industry: One space for each three (3) employees, computed on the largest number of persons employed at any period during day or night.

603.10. Motels and tourist courts: One space for each four (4) employees plus one space for each accommodation.

603.11. Offices: Medical - one space for each three hundred (300) square feet of floor space.

Other professional - one space for each four hundred (400) square feet of floor space.

General - one space for each four hundred (400) square feet of floor space.

603.12. Places of public assembly: One space for each four (4) seats in the principal assembly room or area.

603.13. Recreation and amusement areas without seating capacity: One space for each five (5) customers, computed on maximum service capacity.

603.14. Restaurants: One space for each four (4) employees, plus one space for each one hundred (100) square feet of floor space devoted to patron use.

603.15. Retail business and similar uses: One space for each two hundred (200) square feet of gross floor space.

603.16. Schools: One space for each faculty member, plus one space for each four (4) pupils except in elementary and junior high schools.

603.17. Mobile home parks: Shall meet the requirements of the Erwin Mobile Home Park Ordinance.

603.18. Wholesale business: One space for each three (3) employees based on maximum seasonal employment.

603.19. 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 parking 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.

603.20. Extension of parking space into a residential district: Required parking space may extend up to 120 feet into a residential zoning district, provided that: (1) the parking space adjoins a commercial or industrial district; (2) has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and (3) is separated from abutting properties in the residential district by a plant or fence buffer strip as determined by the building inspector.

604. Off Street Loading and Unloading Space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

604.1. Retail business: One space of at least 12 x 15 feet for each 3,000 square feet of floor area or part thereof.

604.2. Wholesale and industrial: One space of at least 12 x 50 feet for each 10,000 square feet of floor area or part thereof.

604.3. Terminals: Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time.

605. Flood Protection. Any structure proposed to be located within fifty (50) feet of any main drainage channel or stream (hereafter referred to as a stream) within the Town of Erwin, Tennessee must be approved by the Erwin Regional Planning Commission. The planning commission shall determine, on the basis of watershed and the probable runoff, the openings needed for the stream and how close a structure may be built to the stream in order to assure adequate space for flow of flood water. However, in no case shall a building or structure be permitted within fifteen (15) feet of the top of the bank of any stream.

#### 606. Planned Unit Development

606.1. Purpose: The purpose of the Planned Unit Development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The Planned Unit Development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulations, and the general well-being of the inhabitants.

606.2. Location: A PUD may be located within any residential, commercial or industrial district provided that the density and use requirements of the district in which such a PUD is to be located are adhered to and provided that the PUD plan has been reviewed and recommended for approval by the Erwin Regional Planning Commission.

606.3. Permitted uses in PUD's: Any use permitted in that district in which the PUD is to be located.

606.4. Height and Area Regulations: No building shall exceed three stories or thirty-five feet in height except that a conditional permit may be granted by the board of zoning appeals for the construction of structures exceeding their limits provided the following conditions are met:

606.4.1. There is at least six inch water line serving the site.

606.4.2. Fire hydrants are installed so that all buildings can be reached with a 250 foot hose.

606.4.3. There is an internal fire protection system in each structure over three stories or thirty-five feet, which will meet all applicable ordinances as established in the Erwin Fire Code.

606.4.4. The structure shall be built of fire resistant material.

606.4.5. The stairwell doors shall be of fireproof construction and open directly out of the main hallway.

606.4.6. Exit lights shall be placed at all doors leading out of the buildings and at stairwells. All doors that are used as a means of egress from a building shall swing outward and shall be equipped with panic bars.

606.4.7. The total number of dwelling units may not exceed the density allowed in that district.

606.4.8. For every one foot of additional height over 35 feet, the structure shall be set back one additional foot from all property and/or building lines, as specified elsewhere in these regulations.

606.5. The minimum development site for a PUD shall be at least two (2) acres unless otherwise approved by the planning commission.

606.6. No free-standing building shall be closer than twenty (20) feet to any other free-standing building and no closer than twenty-five (25) feet to the exterior property line.

606.7. Off-street parking regulations: Off-street parking shall be provided on a site convenient to the building in accordance with the following requirements:

606.7.I. Residential

606.7.1.1. There shall be at least two spaces per dwelling unit for townhouses, duplexes, and single family dwellings.

606.7.1.2. There shall be at least one and one-half (1-1/2) spaces per dwelling unit for apartment houses.

606.7.1.3. There shall be at least one space for each four seats in the main auditorium of churches and other public buildings.

606.7.1.4. Parking spaces for parks, playgrounds, and community buildings in the development may be required according to the design of the Planned Unit Development.

#### 606.8. General Provisions:

606.8.1. Relationship to the Subdivision Regulations: The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the Major Thoroughfare Plan, Erwin, Tennessee, together with provisions for street improvements shall generally comply with standards set forth in the subdivision regulations. However, the uniqueness of each proposal for a planned unit development may require that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs and other standards may be subject to modification from the specifications established in the subdivision regulations.

Upon application by the landowner and good cause shown, the planning commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section. Modifications may be incorporated only with the approval of the planning commission as a part of its review of the development and granted as a variance in the preliminary approval of the subdivision plat which is concurrent with the final approval by the planning commission of the development plan.

606.8.2. Combination of Separate Types of Planned Unit Development: The Erwin Planning Commission may consider separate types of planned unit developments (such as residential and commercial planned unit development-general) within a consolidated development plan as a single administrative procedure provided the total tract is under single ownership of a landowner, as defined by this article and the land area is sufficient to comply with the separate requirements combined.

#### 606.8.3. Development Standards and Site Improvements:

606.8.3.1. Minimum elevations: All lots shall have a building area above the 100 year flood stage as delineated on the maps and profiles drawn by the Department of Housing and Urban Development.

606.8.3.2. Streets may not be at an elevation less than one (1) foot below the flood level given above.

606.8.4. Site Improvements:

606.8.4.1. All dedicated public streets shall be constructed so as to conform with the intent of the Erwin Subdivision Regulations.

606.8.4.2. There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be four feet.

606.8.4.3. Storm drainage structures shall be constructed in accordance with plans and specifications approved by the planning commission.

606.8.4.4. Any planned unit development to be constructed within Erwin shall be served by a sanitary sewer.

606.8.4.5. For the prevention of noise, improvement of visual character and a generally more pleasing environment adequate landscaping and screening shall be required by the planning commission and shown on the planned unit development plan.

606.8.4.6. Each PUD shall be limited to one major business sign and any number of small accessory business signs. All small accessory signs shall be a face sign attached to a building and shall not project above the building.

606.8.5. Building Construction: No multi-family structure in a PUD shall have more than four (4) continuous apartment units that are not separated by fire resistant construction.

606.8.6. Density: Areas designated for the site of schools, churches and other public buildings cannot be used when computing allowed densities. However the open space around these sites can be so computed.

## 606.8.7. Open Space Requirements

606.8.7.1. Residential: On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should therefore be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.

### 606.8.7.2. Commercial and industrial

606.8.7.2.1. Commercial and industrial Planned Unit Developments shall meet all open space requirements as established by this ordinance.

606.8.7.2.2. All open space shall be landscaped and all such landscaping shall be shown in the planned unit development plan.

606.8.7.3. Said open space shall be established in the appropriate legal manner and maintained in one of the following methods:

606.8.7.3.1. By the developer or management authority of the PUD;

606.8.7.3.2. By Homeowner's Association established by deed restrictions.

606.8.7.3.3. By the public if dedication of such open space is approved by the planning commission.

## 606.8.8 Staging

606.8.8.1. The applicant may elect to develop the site in successive stages in a manner indicated in the planned unit development plan; however, each such stage shall be substantially complete within itself.

606.8.8.2. The planning commission may require that development be done in stages if public facilities are not adequate to service the entire development initially.

## 606.8.9. Changes and Modifications

606.8.9.1. Major Changes: Major changes in the planned unit development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 606.9.

606.8.9.2. Minor changes: Minor changes in the planned unit development plan may be approved by the planning commission provided that such changes:

606.8.9.2.1. Do not increase the densities;

606.8.9.2.2. Do not change the outside (exterior) boundaries;

606.8.9.2.3. Do not change any use;

606.8.9.2.4. Do not materially change the location or amount of land devoted to specific land uses;

606.8.9.2.5. Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developers.

606.8.9.3. Minor changes may include, but are not limited to: minor shifting of the location of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the plan.

606.9. Application Procedure for Planned Unit Development: To obtain a Special Conditions Permit to develop a planned unit development, the developer shall submit a preliminary planned unit development plan to the Erwin Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one inch equals one hundred feet and shall:

606.9.1. Define the location, size, accessibility, and existing zoning of the proposed site;

606.9.2. Indicate the surrounding type of development and land use;

606.9.3. Set forth the type of development proposed, the density of the proposed development, and the location of all structures, parking areas, and open space.

606.9.4. Show a plan for streets, thoroughfares, public utilities, school, and other public or community uses;

606.9.5. In addition to the above, the planning commission may require such other additional information as may be determined necessary to adequately review the proposed development.

606.9.6. No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property contained within the area encompassed by the final PUD plan which is to be subdivided. The building inspector shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with.

606.9.7. The final PUD plan shall conform to the preliminary PUD plan and shall include the following items, if applicable: such items, and in such format, as may be required according to procedures adopted and published by the Erwin Planning Commission.

606.9.8. Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not been adhered to or is not being adhered to provided however, that for good cause shown said special conditions permit may be extended for additional periods not to exceed one (1) year.

## ARTICLE VII. PROVISIONS GOVERNING USE DISTRICTS

701. R-1 (Low Density) Residential District. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted:

701.1. Single family dwellings excluding mobile homes.

701.2. Two family dwellings.

701.3. Customary general farming.

701.4. Customary home occupations provided that: There is no external evidence of the occupation except an announcement sign not more than

two (2) square feet in area; that only one person, not a resident of the dwelling is employed; and not more than 25 percent of the total floor area of the dwelling is used.

701.5. Public owned buildings and uses, public and private schools offering general education, and churches provided that:

701.5.1. The location of these uses shall first be reviewed by the Erwin Planning Commission.

701.5.2. They meet any safeguards set forth in the review by the planning commission.

701.A. RC-1 (Low Density/Condominium) Residential District. It is the intent of this district to establish low-density residential areas which will provide for single and condominium units along with open areas. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life and to prohibit all business activities other than those specifically authorized herein. In order to achieve the intent of the RC-1 (Low Density/Condominium) residential district the following uses are permitted:

701.a.1. Any use permitted in the R-1 Residential District.

701.a.2. Condominiums, upon review and approval of the Erwin Planning Commission.

702. R-2 (Medium Density) Residential District. It is the intent of this district to provide for single family and multi-family dwellings; to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-2 (Medium Density) Residential District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted.

702.1. Any use permitted in the R-1 residential district, provided that the floor area used for the taking of boarders and tourists or the leasing of rooms by the family resident on the premises may not exceed sixty (60) percent of the total floor area of any dwelling.

702.2. Multiple family dwellings.

702.3. Mobile home parks are permitted provided that they meet requirements of the Erwin Mobile Home Park Ordinance.

703. R-3 (High Density) Residential District. It is the intent of this district to provide an area for single and multi-family dwellings, to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential

character of the district. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted:

703.1. Any use permitted in R-2 Residential District.

703.a. M-R District (Medical) Residential. It is the intent of this district to provide an area for residential and medical facilities and to continue the use of land within this district for this purpose; to prohibit the use of land for business and/or industrial activities and other land use which would interfere with the character of this Medical Residential District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted:

a. Single-family dwellings, two-family dwellings, hospitals, medical and dental clinics, clinical laboratories, nursing homes, convalescent homes, drug stores, parking lots, office or studio of the following professional occupations: dentist, optometrist, osteopath and physician.

704. B-1 (Neighborhood) Business District. It is the intent of this district to establish business areas to serve the surrounding residential districts. The neighborhood business district are intended to discourage strip business development and to encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 (Neighborhood) Business District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted:

704.1. Any use permitted in the R-3 Residential District, except for mobile home parks.

704.2. Shopping centers.

704.3. Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats, and laundry pick-up stations, restaurants, and similar uses.

704.4 Business signs provided that all signs, except one detached sign, shall be erected flat against front side of a building or within two feet (24 inches) thereof. All signs shall not project above buildings nor have flashing intermittent or moving illumination.

704.5. Gasoline service stations provided that all structures, including underground storage tanks, shall be placed not less than twenty (20) feet from all property lines. Points of ingress and egress shall not be less than fifteen (15) feet from intersection of street lines.

705. B-2 (Arterial) Business District. It is the intent of this district to establish business areas that encourages groupings of compatible business activities, reduce

traffic congestion to a minimum and enhance the aesthetic atmosphere of the Town of Erwin.

705.1. Any use permitted within a B-1 Neighborhood Business District.

705.2. Hotels and motels

705.3. Auto and mobile home sales

705.4. Restaurants

705.5. Offices

705.6. Places of amusement and assembly

705.7. Funeral homes

705.8. Public and semi-public buildings and uses

705.9. Travel trailer parks

705.10. Lodges and clubs

706. B-3 (Central) Business District. It is the intent of this district to establish an area for concentrated general business development that the general public requires. The requirements are designed to protect the essential characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, and wholesale development which do not lend themselves to pedestrian traffic. In order to achieve the intent of the B-3 (Central) Business District, as shown on the Zoning Map of Erwin, Tennessee, the following uses are permitted:

706.1. Stores and shops conducting retail business.

706.2. Personnel, business, and professional services.

706.3. Public and semi-public buildings and uses provided that public and semi-public buildings and uses shall first be reviewed by the Erwin Planning Commission.

706.4. Business signs, parking lots and garages, and advertising signs.

706.5. Lodges and clubs, hotels and motels, and restaurants.

707. B-4 (Intermediate) Business District. It is the intent of this district to establish an area adjacent to the B-3 (Central) Business District which will support those uses and to encourage commercial development to concentrate to the mutual advantage of consumers as well as to provide for transactions of the district, thereby strengthening the economic base and protecting public convenience. In order to

achieve the intent of the B-4 (Intermediate) Business District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted.

707.1. Any use permitted in B-3 Central Business District.

707.2. Any use permitted in R-3 Residential District except mobile home parks.

707.3. Hospitals and nursing homes.

707.4. Places of amusement and assembly.

708. M-1 (Industrial) District. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling and business uses and to discourage residential development. In order to achieve the intent of the M-1 (Industrial) District, as shown on the Zoning Map of the Town of Erwin, Tennessee, the following uses are permitted:

708.1. Any use permitted in business districts except residences and mobile home parks.

708.2. Terminals

708.3. Wholesale business

708.4. Warehouses

708.5. Storage yards and buildings and similar uses.

708.6. Any industry which does not cause injurious or obnoxious noise, fire hazards or other objectionable conditions as determined by the building inspector.

708.6.1. No yard will be required for that part of the lot which fronts on a railroad siding.

708.6.2. On lots that abut a residential district, the Erwin Planning Commission may require all buildings and improvements be properly screened and shall be located so as to comply with the side yard requirements of the adjacent residential district.

708.6.3. Installation essential to the business operation shall be set back from the street or alley so that services rendered by the business will not obstruct a public way.

709. F-1 District (Floodway). To prevent the loss of life and excessive damage to property in the area of greatest flood hazard, the following regulations will apply:

a. Uses Permitted. The following uses are permitted subject to the approval of the Erwin Regional Planning Commission and to such conditions as the planning commission may specify to protect the public interest, and which do not conflict with uses permitted in adjoining districts:

1. Open type uses, such as loading and unloading areas, parking lots, used car lots, and uses accessory to those permitted in any adjoining district.

2. Storage yards for equipment and material not subject to major damage by flood provided such use is accessory to use permitted in the district; provided further such equipment and material shall be firmly anchored to prevent its floating away and thus threatening to further restrict bridge openings and other restricted sections of the stream.

3. Open type uses public and private recreation facilities such as public parks, golf driving ranges, and drive-in theaters.

4. Circus, carnival, and similar transient amusement enterprises.

5. Agricultural uses.

6. Railroads, streets, bridges, and utility lines.

7. Any other uses customarily accessory or incidental to the above uses.

b. Uses Prohibited. The following uses shall be prohibited:

1. There shall not be constructed in any floodway area any new structures for human habitation, however, any existing structure for human habitation shall be considered a nonconforming use and the use of said property shall continue to be enjoyed by the owners thereof in accordance with existing law of the State of Tennessee, but nothing herein shall be considered as a suggestion by the Town of Erwin, Tennessee that said property be continued to be so used, and such floodway property used by the owners thereof for human habitation shall be done so at their own peril.

2. Landfill or dumping except as necessary in the construction of railroads, streets and bridges.

**ARTICLE VIII. 801. Area, Yard, and Height Requirements**

District	<u>Minimum Lot Size, Sq. Ft.</u>		Lot Width at Building Site (ft.)	<u>Minimum Yard Requirements from Property Lines .</u>			<u>Maximum Height of Structures .</u> (Feet)	<u>Building Area</u> (Percent).	
	Area in Sq. Ft.	Per Additional Family		Front	Side (Each Side)	Rear			
R-1	15,000	7,500	75	30	10	30	35	30	
R-2	7,500	2,500	50	25	8	30	35	35	
RC-1	13,000	6,000	65	25	10	30	35	30	
R-3	5,000	2,500	50	25	8	30	35	35	
M-R	15,000	7,500	75	30	10	30	35	30	
B-1				30	10	25	35		
B-2				30	10	25	35		
B-3							35		
B-4				20	10	25	35		
M-1				20	10	20	75		
F-1	Setbacks established by planning commission review.							.	

These requirements are to include all roof lines, porches, garages, and carports.

## ARTICLE IX. EXCEPTIONS AND MODIFICATIONS

91. Lot of Record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time 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 variance provisions established by this ordinance. 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.

92. Adjoining and Vacant Lots of Record. A plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this ordinance, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of this ordinance.

93. Front Yards. The front yard requirements of this ordinance for dwellings 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.

94. Group Housing Projects. In the case of a group housing project or two or more buildings to be constructed on a plot of ground of at least one acre not subdivided into the customary streets and lots, and which will not be so 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, a special exception to the terms of this ordinance may be made by the board of zoning appeals in a manner that will be in harmony with the 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 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 located, or a smaller lot 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 a district.

95. Exception on Height Limits. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, mast and aerials.

## ARTICLE X. ENFORCEMENT

101. Enforcing Officer. The provisions of this ordinance shall be administered and enforced by the municipal building inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this ordinance.

102. Building Permit Required. It shall be unlawful to commence the excavation for or 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 for such work a building permit including a statement that the plans, specifications and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the building inspector.

103. Issuance of Building Permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location 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 of construction as set forth in the application are in conformance with the provisions of this ordinance, 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 cause.

104. Certificate of Occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of the ordinance and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted.

105. Penalties. Any person violating any provision 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.

106. 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 of such building.

## ARTICLE XI. BOARD OF ZONING APPEALS

111. Creation and Appointment. A board of zoning appeals is hereby established in accordance with Section 13-705, Tennessee Code Annotated, Volume 3, same being Section 5, Chapter 44 of Public Acts of Tennessee of 1935. The Erwin Regional Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Erwin Regional Planning Commission.

112. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

113. 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 or bureau affected by any decision of the building inspector based in the whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

114. Powers. The board of zoning appeals shall have the following powers:

114.1. Administer 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.

114.2. Special exceptions. To hear and decide special exceptions to this ordinance as set forth in Article IX.

114.3. 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 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 conditions 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 substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. 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. Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

115. Action of the Board of Zoning Appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to authorize any variance from the terms of this ordinance.

## ARTICLE XII. AMENDMENT

121. Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of this ordinance. Any member of the town board may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this ordinance.

121.a. Application and Fee. Citizens wishing to have the ordinance amended shall file an application according to the regulations of the planning commission. To partially defray the administrative cost and cost of giving public notice, the applicant shall pay a filing fee to the Town of Erwin of twenty-five (25.00) dollars when requesting an amendment to the zoning map and fifteen (\$15.00) dollars when requesting an amendment to the text of this ordinance.

121.b. Notice to Property Owners. The persons requesting the rezoning must submit to the planning commission letters addressed to each property owner and resident within two hundred (200) feet of the property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where a public hearing will be held before the planning commission. Such letters should be placed in unsealed, stamped and addressed envelopes ready for mailing by the planning commission. The return address of the planning commission must appear

on the envelope, and a list of all persons to whom letters are sent must accompany the application.

122. Approval by Planning Commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves, after such submission, it shall require the favorable vote of the majority of the entire membership of the town board to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable.

123. Introduction of 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 Town of Erwin, 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.

### ARTICLE XIII. LEGAL STATUS PROVISIONS

131. 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 Town of Erwin, the most restrictive shall in all cases apply.

132. 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.

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

Certified by Planning Commission\_\_\_\_\_

Passed on first reading\_\_\_\_\_

Passed on second reading\_\_\_\_\_

Approved and signed in open meeting\_\_\_\_\_