

**ARTICLE XVI  
PENALTIES AND REMEDIES**

**16.1 - ESTABLISHMENT OF ADMINISTRATIVE OFFICER**

The provisions of this Code shall be administered by the Chief Building Official.

**16.2 - DUTIES AND LIMITATIONS OF THE CHIEF BUILDING OFFICIAL**

- 16.2.1 The Chief Building Official shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary for the enforcement of this Code.
- 16.2.2 It shall be unlawful for the Chief Building Official to approve any plans or issue a zoning compliance permit for any filling and leveling, excavating or construction until he has inspected such plans in detail and found them in conformity with this Code. To this end, the Chief Building Official shall require that every application for a zoning compliance permit for filling and leveling, excavation, construction, moving, alteration, or change in the type of use or type of occupancy, shall be accompanied by written statements and plans or plats drawn to scale showing the following in sufficient detail to enable him to ascertain whether the proposed work or use is in conformity with this Code:
- 16.2.2.1 The actual shape, location, and dimensions of the lot;
  - 16.2.2.2 The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any buildings or other structures already on the lot;
  - 16.2.2.3 The existing and intended use of the lot and of all structures upon it;
  - 16.2.2.4 Such other information concerning the lot or adjoining lots or other matters as may be essential for determining whether the provisions of this Code are being observed; and
  - 16.2.2.5 When a sign, is to be erected or constructed, a dimensioned sketch of the proposed location of the sign shall be shown in relation to other structures on the property and a dimensioned drawing of the sign itself shall be submitted.
- 16.2.3 If the proposed filling, leveling, excavation, construction, moving, alteration, or use of land as set forth in the application are in conformity with the provisions of this Code, the Chief Building Official shall issue a zoning compliance permit. If any application for such permit is not approved, the reason for disapproval shall be stated in writing on an appropriate denial form.

- 16.2.4 The Chief Building Official may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the Chief Building Official may on such preliminary submittal take the formal action of denial and referral to the Board of Zoning Appeals, however, that a zoning compliance permit may not be issued until all information required in Subsection 16.2.2 is filed and approved.
- 16.2.5 The Chief Building Official is under no circumstance permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Code to any person making application to excavate, construct, move, alter, or use buildings, structures or land; nor is the Chief Building Official permitted to make changes or vary the terms of this Code.
- 16.2.6 The duties and responsibilities of the Chief Building Official for Article VIII, Floodplain Regulations, shall include, but not be limited to, the following:
- 16.2.6.1 Review of all development permits to assure that the permit requirements of the Floodplain Regulations have been satisfied, and that proposed building sites will be reasonably safe from flooding.
  - 16.2.6.2 Advise 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. Copies of the Joint Army Corp. and TVA permits and Tennessee Department of Environment and Conservation Aquatic Resources Alteration Permit (ARAP) are included in the Floodplain Development Permit Guide.
  - 16.2.6.3 Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the FEMA and the Tennessee Department of Environment and Conservation.
  - 16.2.6.4 Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Subsection 8.3.1.2.
  - 16.2.6.5 Record the actual elevation (in relation to mean sea level or highest adjacent grade, which ever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with Subsection 8.3.1.2.

- 16.2.6.6 When flood-proofing is utilized for a structure, the Chief Building Official shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Subsection 8.3.1.2.
- 16.2.6.7 Where interpretation is needed regarding 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 Chief Building Official 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 Article XV.
- 16.2.6.8
- A. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Chief Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Flood Zone A on the Community FHBM or Community FIRM meet the requirements of this Article.
  - B. Within unnumbered A Flood Zones or for unmapped streams, where base flood elevations have not been established and where alternative data is not available, the Chief Building Official shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in the definitions) or five and one-half (5.5) feet above the elevation of the normal flow of the adjacent stream channel, whichever is greater. This is illustrated in the Floodplain Development Permit Guide. All applicable data including the highest adjacent grade elevation, elevation of the normal flow, stream channel elevation, and the elevations of the lowest floor of flood-proofing shall be recorded as set forth in Subsection 8.3.1.
- 16.2.6.9 All records pertaining to the provisions of the Floodplain Regulations shall be maintained in the office of the Chief Building Official 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 the combined files.
- 16.2.6.10 Assure the flood carrying capacity within an altered or relocation portion of any water course is maintained.

### **16.3 - ZONING COMPLIANCE PERMIT REQUIRED**

- 16.3.1 It shall be unlawful to commence filling, leveling, excavation, or construction of any building or other structure, including an accessory structure, or to commence moving, alteration, or repair of any structure, including accessory structures which changes land use, encloses previously open structures, adds new structures, or adds dimensions to existing structures, costing more than one hundred dollars (\$100.00) or exceeding one hundred (100) square feet in area, until the Chief Building Official has issued a zoning compliance permit including a statement of his opinion that plans, specifications, and intended use of such structure does in all respects conform to the provisions of this Code.
- 16.3.2 It shall be unlawful to change the type of use or occupancy of any building, or to extend any use of any lot on which there is a non-conforming use, until the Chief Building Official has issued of such intended use a zoning compliance permit including a statement of his opinion that the proposed use does in all respects conform to the provisions of this Code.
- 16.3.3 Any repair, alteration, construction, removal, filling, leveling, excavation, or change of use must conform to the regulations for the district in which the structure or land is located; and the fact that in some instances a zoning compliance permit need not be secured in no way relaxes such requirements.
- 16.3.4 Application for a zoning compliance permit shall be made not less than ten (10) days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the Chief Building Official on forms provided for that purpose. A record of all such applications shall be kept on file by the Chief Building Official. Any zoning compliance permit issued under the provisions of this Code shall be valid only for a period of six (6) months following the date of issuance.
- 16.3.5 When the Chief Building Official receives an application for a zoning compliance permit which requires approval by the Board of Zoning Appeals such application shall be conveyed to the Board for action before a zoning compliance permit is issued.
- 16.3.6 At the time a zoning compliance permit is issued by the Chief Building Official, the applicant shall also obtain a placard stating that a zoning compliance permit has been issued. This placard shall be conspicuously posted throughout the period of construction by the applicant on the premises for which the zoning compliance permit is issued; and said placard shall be posted in such a manner to permit viewing from the street on which the property fronts.
- 16.3.7 The issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this Code.

#### **16.4 - FEES**

A schedule of fees for permits issued under the provisions of this Code may be established by the Board of Commissioners.

## **16.5 - CERTIFICATE OF OCCUPANCY**

- 16.5.1 No building or structure or use for which a zoning compliance permit has been issued shall be used or occupied until the Chief Building Official has, after final inspection, issued a Certificate of Occupancy indicating his opinion that all provisions of this Code are being complied with.
- 16.5.2 However, the issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Code.
- 16.5.3 Before a Certificate of Occupancy may be obtained all site improvements shown on the final plan, where required, shall have been completed and approved by the Chief Building Official.
- 16.5.4 It is provided, that a portion of a commercial site prior to the completion of site may be occupied prior to the completion of site improvements if a certified check or performance bond, issued and secured by a reliable, legally authorized and established bonding firm, acceptable to the Board of Commissioners, in an amount sufficient to complete the work to be done as determined by the City Engineer, is posted with the Board of Commissioners authorizing the Board to use the proceeds from said bond or check to complete the required improvements in the event the developer fails to comply with these regulations within twelve (12) months from the date of the agreement.
- 16.5.5 **ENFORCEMENT, VIOLATION, AND PENALTY:**  
All things shown on the final plan, including all construction plans for site improvements, upon final approval by the City Commission, become part of the zoning regulations of the district, and nothing in conflict therewith shall be done on the premises.

## **16.6 - PENALTIES**

- 16.6.1 Any person violating any provision of this Code shall be guilty of a misdemeanor, punishable as other misdemeanors as provided by laws. Each day such violation shall continue shall constitute a separate offense.

## **16.7 - REMEDIES**

- 16.7.1 In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure, or land used in violation of this Code, the Chief Building Official or any other 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 or procedure to prevent the occupancy of such building, structure or land.

16.7.2 The Chief Building Official is charged with the duty to prosecute these matters before the City Court and is authorized to instigate such proceedings before this court.

**16.8 - CONFLICT WITH OTHER ORDINANCES**

16.8.1 All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**16.9 - VALIDITY**

16.9.1 If any section, clause, provision, or portion of this Code 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 Code which is not of itself, invalid or unconstitutional.

**16.10 - EFFECTIVE DATE**

16.10.1 BE IT ORDAINED, that this Code shall become effective after passage on third and final reading and publication as required by law Ordinance 1925 of the city of Johnson City, Tennessee.

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

**Section 3. BE IT FURTHER ORDAINED** that this ordinance shall become operative from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED ON THE FIRST READING \_\_\_\_\_  
PASSED ON THE SECOND READING \_\_\_\_\_  
PASSED ON THE THIRD READING \_\_\_\_\_

APPROVED AND SIGNED IN OPEN MEETING ON THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney