

## **CHAPTER 8 ADMINISTRATION AND ENFORCEMENT**

### **Sections:**

- 14.801. Organization and Purpose
  - 14.802. Municipal Regional Planning Commission
  - 14.803. Duties of the Chief Building Official
  - 14.804. Duties of the Planning Department
  - 14.805. Building Permits and Certificates of Occupancy
  - 14.806. BZA - The Board of Zoning Appeals
  - 14.807. Zoning Variances
  - 14.808. Conditional Use Permits
  - 14.809. Amendments
  - 14.810. Remedies and Enforcement
  - 14.811. Annexations
  - 14.812. ADA Reasonable Accommodations
  - 14.813. Vested Rights
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### **14.801. Organization and Purpose**

#### **A. Organization**

The administration and enforcement of this ordinance is hereby vested in the following offices of the government of the City of Lebanon.

1. The Office of the Chief Building Official or Authorized Representative
2. The Office of the Planning Department
3. The Board of Zoning Appeals

#### **B. Purpose**

It is the purpose of this chapter to set out the authority of each of these offices and then describe the procedures and substantive standards with respect to the following administrative functions:

1. Issuance of Permits
2. Issuance of Use and Occupancy Permits
3. Variances
4. Conditional Use Permits
5. Amendments

### **14.802. Municipal Regional Planning Commission**

#### **A. Creation and membership**

Pursuant to the provisions of section 13-3-101 of the Tennessee Code Annotated there is hereby created a Municipal Regional Planning Commission, hereinafter referred to as the Planning Commission. The Planning Commission shall consist of ten (10) members; two (2) of these shall be the Mayor or his representative, and a City Councilor selected by the City Council; the other eight (8) members shall be

appointed by the mayor. All members of the Planning Commission shall serve as such without compensation. Except for the initial appointments which shall be made so as to stagger the terms, the terms of the eight (8) members appointed by the Mayor shall be for four (4) years each. The terms of the mayor and the City Councilor selected by the City Council shall run concurrently with their terms of office on the City Council. Any vacancy in an appointive membership shall be filled for the unexpired term by the Mayor. (1968 code, § 11-101, modified).

#### **B. Organization, Powers, Duties, etc.**

The Planning Commission shall be organized and shall carry out its powers, functions, and duties in accordance with title 13 of the Tennessee Code Annotated. (1968 code, § 11-102).

#### **14.803. Duties of the Chief Building Official**

The Chief Building Official shall enforce the terms of this ordinance and in addition thereto and in furtherance of said authority shall:

1. Issue all building permits, and make and maintain records thereof;
2. Issue all use and occupancy permits, and make and maintain all records thereof;
3. Conduct inspections of buildings, structures, and uses of land to determine compliance with the provisions of this ordinance;
4. The Chief Building Official shall have the power to grant building permits and use and occupancy permits and make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the building official to approve any plan or issue any permits as certificates of occupancy for any excavation or construction until appropriate site plans have been approved by the Planning Commission.
5. Under no circumstances is the building official permitted neither to make changes in this ordinance nor to vary its terms and provisions in carrying out his duties.
6. The building official shall not refuse to issue a permit when conditions imposed by this ordinance have been met by the applicant despite the violations of contracts such as covenants or private agreements which may occur upon the granting of said permit.

#### **14.804. Duties of the Planning Department**

The Planning Department shall:

1. Provide information to the public on provisions of this ordinance as requested;
2. Receive, file and forward to all necessary agencies all applications for conditional uses;
3. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters, on which the board is required to pass under the provisions of this ordinance.

4. Maintain permanent and current records of this ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variations, appeals and applications therefore.
5. Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make reports of the recommendations to the Lebanon Planning Commission.
6. Analyze and report on all requests for amendments to the Lebanon Planning Commission and City Council.
7. Make analyses and recommendations to the board of zoning appeals on all requests for variances and conditional use permits.
8. Enforce the provision of this ordinance in accordance with 14.811 or other remedies at law.

#### **14.805. Building Permits and Certificates of Occupancy**

##### **A. Building Permits Required**

1. No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the Chief Building Official.
2. Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by any office, department, or employee of the city unless the application for such permit has been examined by the Chief Building Official indicating that the proposed building or structure complies with all the provisions of this ordinance and the adopted building code. Any building permit or certificate of occupancy issued in conflict with the provisions of this ordinance shall be null and void.

##### **B. Site Plan Required for Building Permits**

1. All applications for building permits shall be accompanied by a site plan meeting the requirements herein, however, that a site plan is not required when an existing building is converted from one permitted use to another permitted use and no additional construction is required and that no additional impervious surfaces are added to the site.
2. With the exception of one- and two-family dwellings and other structures listed further in this section, which may be approved internally by staff, the site plan for all buildings shall be approved by the Lebanon Planning Commission prior to the issuance of the building permit.
3. An approved site plan will expire if the following timeframes elapse from the Planning Commission approval date and if all relative development benchmark actions have not been completed as described, consistent with Tennessee Code Annotated (TCA) § 13-4-310:

3 Years – If a grading permit has not been secured and site preparation has not commenced.

5 Years – If a grading permit has not been maintained, building permit has not been secured, and construction has not commenced.

10 Years – If a building permit has not been maintained and construction has not been completed for a single-phase project.

15 Years – If a building permit has not been maintained and construction has not been completed for a multi-phase project.

Prior to any of these expiration benchmarks being reached, the applicant may request an extension from the Planning Commission for the plans as approved. The date on which the Planning Commission hears the request must be prior to the expiration date in question.

Should the site plan expire, a new application will need to be submitted and receive Planning Commission approval compliant with all relative codes at the time of the new application submittal.

4. Minor amendments to an approved site plan may be approved internally by staff.
5. All site plans shall be prepared and stamped by registrants of the State of Tennessee who are licensed to practice the particular discipline being prepared (e.g. site layout and drainage by civil engineers, boundary surveyors,).
6. No Site Plan Required:
  - a. Single-Family Dwellings and Two-Family Dwellings
  - b. Accessory Dwelling (backyard cottage) Units
  - c. Three-Family and Four-Family Residential Developments (when it does not have more than 5,000 sq. ft. of roofed area, more than 8,000 sq. ft. and less than 50% lot coverage of impervious area, is not on a property with floodplain/floodway, or require any variances). If there are any known or suspected issues including, but not limited to, drainage, access, or any utility extensions needed, Staff may ask for a minor site plan.
  - d. Non-habitable improvements (air conditioners, dog houses etc.)
  - e. Improvements that are not under a roof (uncovered decks, patios etc.)
7. Minor Site Plan Required: A development qualifies for a minor site plan when one of the following criteria is met:
  - a. Any addition to a commercial building that is less than 25% increase in the area under roof and where the total addition is under 5,000 square feet.
  - b. Three-Family and Four-Family Residential Developments, as determined by the Planning Department or Engineering Department.
  - c. Parking lots and other non-residential site improvements, as determined by the Planning Department or Engineering Department to assure compliance with all local ordinances and codes.
8. The Planning Department or Engineering Department may elect to send any minor site plan to Planning Commission.
9. The following items are required of a minor site plan:

- a. The actual shape, location, and dimensions of the lot.
  - b. The shape, size and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structure already on the lot.
  - c. The existing and intended use of the lot and of all such buildings or other structures upon it, including the number of dwelling units the building is intended to accommodate.
  - d. Internal parking, traffic flow and property access.
  - e. Method and location of stormwater runoff control.
  - f. Location and Dimensions of Existing and Proposed Utilities (including service line and public mains)
  - g. Such other information concerning the lot or adjoining lots, as may be essential, for the determining whether the provisions of this ordinance are being observed.
10. All Other Buildings, Structures, and Activities: All site plans shall be prepared and stamped by registrants of the State of Tennessee who are licensed to practice the particular discipline being prepared (e.g. site layout and drainage by civil engineers, boundary surveyors.)
- a. The actual shape, location, bearings, and dimensions of the lot.
  - b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structure already on the lot.
  - c. The existing and intended use of the lot and of all such buildings or other structures upon it, including the number of dwelling units the building is intended to accommodate.
  - d. Topographic features (contours not greater than two (2) foot intervals).
  - e. Location of all driveways and entrances.
  - f. Location of all accessory off-street parking areas to include a plot plan showing design and layout of such parking facilities.
  - g. Location of all accessory off-street loading berths.
  - h. Location of open space and outdoor storage areas.
  - i. Proposed ground coverage, floor area, and building heights.
  - j. Position of fences and walls (materials specified).
11. Landscape Plan: The Landscape Plan shall reflect the developer's, builder's, or property owner's best effort to utilize landscaping in order to soften the impact of development and help blend new development into Lebanon's existing landscape. The Plan shall illustrate full compliance with the requirements of this Section for new construction and proportional compliance for additions. Landscape Plan Requirements:
12. A separate Landscape Plan shall be submitted at a minimum scale of one

(1) inch equals fifty (50) feet. The Landscape Plan shall clearly describe the location, type, size, and spacing of all plant materials. It shall also include planting details and specifications clearly describing material installation, planting mixtures, mulch, material depth, and other necessary information. The Landscape Plan shall correspond with a phasing plan for the development if phasing is proposed. The following elements shall be shown on the landscape site plan:

- a. Zoning of site and adjoining properties;
- b. Existing and proposed contours at two (2) foot intervals or less;
- c. Boundary lines and lot dimensions;
- d. Date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for creating the landscape plan;
- e. Location of all proposed structures and storage areas;
- f. Drainage features and 100-year floodplain, if applicable;
- g. Parking lot layout including parking stalls, bays, and driving lanes;
- h. Existing and proposed utility lines, and easements;
- i. All paved surfaces and curbs;
- j. Existing trees or natural areas to be retained; or existing vegetation intended to be credited toward meeting minimum requirements, the delineation, calculations, and language describing plan for protection during construction;
- k. Planting details, specifications, and installation information for plant materials, soil preparation, mulches, edging, etc.;
- l. Proposed plant material;
- m. Language and calculations that indicate overall minimum requirements;
- n. Illustration indicating compliance with visibility at intersection requirements;
- o. Proposed phasing for the implementation of the plan; and
- p. Plant schedule (see below). The schedule must accurately reflect the landscape plan.
  - i. The schedule shall be divided according to type of plant material: existing and proposed trees (broken into categories of type of shade trees, evergreen trees, accent/ornamental trees, etc.), shrubs, groundcovers, turf types, including any seed mixes.
  - ii. Plant name abbreviation (if used), plant name (common name, botanical name and variety), and exact quantities of each plant shall be included on the plant schedule.
  - iii. The schedule shall indicate the size of plants. Size shall be expressed in terms of size of container (five (5) gallons for shrubs, one (1) gallon for perennials and groundcovers), height of plant (for evergreen trees), or caliper of tree (for deciduous trees).

- iv. Plant spacing for shrubs and groundcovers must be indicated (for example: “four (4) feet on center – triangular spacing”).
  - q. Approval of the Plan: Reviews of Landscape Plans shall be conducted by the Planning Department. The Planning Department will make a report to the Planning Commission, and the Planning Commission will approve, deny, or ask for the plan to be revised and/or resubmitted to meet the requirements. If, in the opinion of the Planning Commission, the submitted Landscape Plan does not satisfy the requirements of this section, then within 30 days from the Planning Commission's decision, an applicant may appeal in writing to Chancery Court for review and decision.
  - r. Compliance with the Plan: A field inspection of plant materials will be conducted prior to the issuance of a Certificate of Occupancy. If the landscaping has not been installed and inspected for proper installation prior to receiving a Certificate of Occupancy, a Certificate of Occupancy may be granted provided the following conditions are met:
    - i. Property owner provides irrevocable letter of credit for the Engineering Department;
    - ii. The amount of the letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a 10% contingency cost, as shown on the submitted landscape plan; and
    - iii. The cost of the landscaping shall be certified by a landscape contractor.
13. Location of utilities (sanitary sewers, storm sewers, water mains, gas mains and sizes, and fire hydrants). A utility availability letter application may be needed by the utility department.
- a. Location, type, and size of proposed signs.
  - b. Proposed means of surface drainage.
  - c. Location of all easements and rights-of-way.
  - d. For any site subject to flooding, the limits of floodway and fringe areas, the regulatory flood elevation and regulatory flood protection elevation, and the minimum first floor elevation.
  - e. The stamp and name of the registered engineer, architect, landscape architect, or surveyor preparing the plan.
  - f. Where subsoil sewage disposal is anticipated, certification from the county health department approving the lot for such use.
14. Circulation Plan: A Circulation Plan shall be submitted. The Circulation Plan shall address street connectivity, pedestrian access and circulation, emergency and service vehicle access, drive-through circulation, parking movements, accommodation of loading operations, turning radii, traffic calming measures where future “cut-through” traffic is likely, and similar issues. The Planning Commission may waive the requirement for a Circulation Plan on a case-by-case basis in the event that a new development is expected to have no impact upon circulation or proposes no change in existing circulation patterns. This provision shall not be construed

to exempt development that includes additional parking, driveways, or substantial modifications to the existing pedestrian network.

#### 15. Building Plan:

- a. The Building Plan shall reflect the developer's, builder's, or property owner's best effort to promote and enhance a high quality built environment. The Plan shall illustrate full compliance with the requirements of this Section.
- b. Building Plan Requirements:
  - i. Applicants shall submit a Building Plan with the following information:
  - ii. Elevation (to scale) of each building façade that faces or is visible from a public street, private street, or usable open space;
  - iii. The amount of transparency as measured by dividing the area of windows and doors by the total façade area of a street-facing story; and
  - iv. List of proposed exterior materials keyed to or noted on each elevation.
- c. Approval of Plan: The review of a Building Plan shall be conducted by the Planning Department. The Planning Department will make a recommendation to approve, disapprove, or ask for the plan to be revised and resubmitted to meet the requirements. The applicant may appeal a decision of the Planning Commission to disapprove the Building Plan in writing to Chancery Court for review and decision.
- d. Compliance with Plan: A field inspection will be conducted to confirm compliance prior to the issuance of a Certificate of Occupancy.

#### 16. Lighting Plan

- a. The Lighting Plan shall reflect the developer's, builder's, or property owner's best effort to ensure outdoor lighting promotes adequate safety and security while reducing its impact on adjacent properties and roadways. The Plan shall illustrate full compliance with the requirements of this Section.
- b. Lighting Plan Requirements: When required, the applicant shall provide a lighting plan that indicates the location, height, and design of all exterior lighting; and a photometric plan indicating foot candles at property lines. The Lighting Plan may be included as part of other required plans of the submittal.
- c. Approval of Plan: The review of a Lighting Plan shall be conducted by the Engineering Department. At a minimum, Lighting Plans must meet the Middle Tennessee Electric Membership Corporation standards and any subsequent amendments and be approved by the Lebanon Planning Commission. The Engineering Department will make a recommendation to approve, disapprove, or ask for the plan to be revised and resubmitted to meet the requirements. The applicant may appeal a decision of the Planning Commission to disapprove the Building Plan in writing to the Chancery Court for review and decision.

- d. Compliance with Plan: A field inspection will be conducted to confirm compliance prior to the issuance of a Certificate of Occupancy.
17. Certificate of Occupancy Required: No building or an addition constructed after the effective date of this ordinance, and no addition to a previously existing building shall be occupied, and no land shall be used for any purpose, until a certificate of occupancy has been issued by the Chief Building Official.
18. Application for Certificate of Occupancy: Every application for a building permit shall be deemed to be an application for a certificate of occupancy. Every application for a certificate of occupancy for a new use of land where no building permit is required shall be made directly to the office of the Chief Building Official.
19. Issuance of Certificate of Occupancy: The following shall apply in the issuance of any certificate of occupancy.
- a. Permits Not to be Issued: No certificate of occupancy shall be issued for any building, structure or part or for the use of any land, which is not in accordance with the provisions of this ordinance.
  - b. Certificate of Occupancy for Existing Buildings: Certificates of occupancy may be issued for existing buildings, structures or parts thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this ordinance.
  - c. Temporary Certificate of Occupancy Permits: Nothing in this ordinance shall prevent the issuance of a temporary certificate of occupancy permit for a portion of a building or structure in process of erection or alternation, provided that such temporary permit shall not be effective for a time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.
  - d. Permits for Dwelling Accessory Buildings: Buildings accessory to dwellings shall not require a separate certificate of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the site plan and when completed at the same time as such dwelling.
20. Final Inspection: No certificate of occupancy for a building, structure, or an addition thereto, constructed after the effective date of this ordinance, shall be issued until construction of the building and on-site improvements have been completed and inspected by Chief Building Official, Planning Department, and Engineering Department, as appropriate. Additionally, the licensed professional that prepared the plan shall certify to the Planning Department that the final construction including all site improvements is in conformity with the plans and specifications which were approved and upon which the building permit was based.

## **14.806. BZA - The Board of Zoning Appeals**

### **A. Creation of Board of Zoning Appeals**

The Board of Zoning Appeals as created by 1968 Code § 11-201 and amended by Ordinance 83-501 shall continue in effect as appointed.

### **B. Vacancies and Removal**

Vacancies of said board shall be filled for the unexpired term of those members whose position has become vacant by appointment of the Mayor with confirmation by the City Council. A member may be removed from such board for continued absences or just cause by action of the Mayor and City Council after proper hearing.

### **C. Advisory Opinions**

The Lebanon Planning Department may submit an advisory opinion to the board on any matter which may come before the board. The opinion shall be made as part of the official record of the board.

### **D. Powers of the Board**

The board is hereby vested with the powers to:

1. Hear and decide appeals where it is alleged in writing by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Chief Building Official or other administrative official in carrying out or enforcement of any provision of this ordinance;
2. Hear and act upon applications for variances in accordance with TCA § 13-7-207 (3) and Section 14-1207 of this chapter to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reasons of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of such property;
3. Hear and act upon applications for conditional use permits in the manner and subject to the standards set out in Section 14.1208 of this chapter or for interpretations of the official Zoning Atlas;
4. Hear and decide all special questions or other matters referred to it on which it is required to act under this ordinance.

### **E. Election of Officers**

The board shall elect from its members its own chairman and vice-chairman, who shall serve for one year and may upon election serve succeeding terms. The board shall elect a secretary who may be a member or such other person from city staff as the board and Mayor shall approve. It shall be the duty of the secretary to keep all records, conduct official correspondence, and supervise the clerical work of the board. The Mayor may provide such other assistance as is necessary.

## **F. Conflict of Interest**

Any member of the board who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the board shall be disqualified from participating in the discussion, decision, and proceedings of the board in connection with the subject matter. The burden for revealing any such conflict rests with individual members of the board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the board for cause.

## **G. Meetings of the Board**

Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.

## **H. Rules and Proceedings of the Board**

The board shall adopt rules for the conduct of its meetings. Such rules shall at a minimum require that:

1. The presence of three (3) members of the board shall constitute a quorum. The concurring vote of at least three (3) members shall be necessary to deny or grant any application before the board;
2. No action shall be taken by the board on any case until after an opportunity for public comment and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation before the date set for a public meeting and a sign posted on the subject area of the application with a contact phone number. Written notice adjoining property owners should be sent in time to give notice of the meeting at which the action is to be heard. No appeal should be considered and heard by the board unless such appeal shall have been filed within the time frame as established by the published calendar;
3. The board may call upon any other office or agency of the city government for information in the performance of its duties, and it shall be the duty of such other agencies to render such information to the board as may be reasonably required;
4. Any officer, agency, or department of the city or other aggrieved party may appeal any decision of the board to a court of competent jurisdiction as provided for by state law;
5. In any decision made by the board on a variance the board shall:
  - a. Indicate the specific section of this ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare";
  - b. In cases pertaining to hardship, specifically identify the hardship warranting such action by the board;
  - c. Any decision made by the board on a conditional use permit shall indicate the specific section of this ordinance under which the permit is being

considered and shall state its findings beyond such generalities as “in the interest of public health, safety and general welfare” and shall state clearly the specific conditions imposed in granting such permit;

- d. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the board, good and sufficient cause being shown;
6. At the public hearing of the case before the board, the appellant shall appear in his/her own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.
7. All exhibits presented to the Board for consideration must be submitted as evidence and made part of the record unless the Board otherwise deems it unnecessary. All bulky exhibits presented to the Board must be accompanied by the person presenting the exhibit.
8. Upon the conclusion of all of the testimony and evidence, the public hearing will be closed and no further evidence may be admitted except as the Board may permit on motion.
9. Re-hearings may be granted by a majority vote of the board when it is alleged that there was error or mistake in the original facts or upon introduction of new information not available at the original hearing. A vote of the board shall not be reversed on the same set of facts.
10. A record of the board's proceedings, including resolutions, transactions, motions, and actions, are public records as will be maintained in accordance with the Public Records Act.
11. All decisions of the Board must be reduced to writing, and must include statements of reasons for the board's actions as part of each motion, action, and decision, including such findings of fact and statements of material evidence as the board may deem pertinent.

#### **I. Stay of Proceedings**

An appeal shall stay all proceedings in furtherance of the action for which an appeal is made, unless the Chief Building Official certifies to the board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of competent jurisdiction on application, on notice to the Chief Building Official, and on due cause shown.

#### **J. Liability of Board Members and City Employees**

Any board member or city employee charged with the enforcement of this ordinance, acting for the city in the discharge of his/her duties, shall not thereby render him/herself liable personally, and he/she is hereby relieved from all personal liability and shall be held harmless by the city of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their

duties. Any suit brought against any board member or city employee charged with the enforcement of any provision of this ordinance shall be defended by legal representation furnished by the city until the final termination of such proceedings.

#### **K. Right to Entry Upon Land**

The Board, its members, and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this ordinance.

#### **L. Fee**

Any application for a hearing before the Board shall be accompanied by a nonrefundable fee in an amount established by the City Council to partially defray the cost of processing.

#### **M. Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official**

In exercising its powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

### **14.807. Zoning Variances**

The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this section.

#### **A. Application for Variances, Notice of Hearing**

A written application for a variance shall be filed with the Board by the property owner or his/her designated agent on forms provided by the City of Lebanon, and the application shall contain information and exhibits as may be required under Section 14.805(B) of this chapter. No more than 60 days after the filing of the application, a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the applicant. Notice of hearing shall be in accordance with Section 14.806(H)(2) of this chapter.

#### **B. Notice to Affected Property Owners**

It shall be the general rule of the board that reasonable efforts shall be made to contact and notify interested parties, who in the opinion of the board, may be affected by any matter brought before the board. In all cases all owners of record of adjoining property, including those separated by a public way from the premises in question shall be notified.

#### **C. Standards for Variances**

The board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

1. The particular physical surroundings, shape, and topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict

application of this ordinance were carried out must be stated;

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance;
4. Financial returns only shall not be considered as a basis for granting a variance;
5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance;
6. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same districts;
7. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
9. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

#### **D. Nonconformity Does Not Constitute Grounds for Granting of a Variance**

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

#### **E. Prohibition of Use Variances**

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in the district.

#### **F. Conditions and Restrictions by the Board**

The Board of Zoning Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 14.807(C) above to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this ordinance. The board may establish expiration dates as a condition or as a part of the variances.

#### **G. Variance Appeals**

Any person including any agency of the city government aggrieved by a decision of the Board of Zoning Appeals on a variance, may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this

chapter shall be final and subject to review only for illegality or want of jurisdiction.

## **14.808. Conditional Use Permits**

### **A. Conditional Uses**

The Board of Zoning Appeals may hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by TCA § 13-7-207.

### **B. Application for Conditional Use Permit, Notice of Public Hearing**

The application for a conditional use permit shall be made by the property owner or designated agent and filed in writing with the board and shall contain information and exhibits as may be required under Section 14.1205.B of this chapter or in the case of buildings or other structures or uses to be located within floodplain districts, as may be required by Chapter 9, Section 902. Not more than 60 days after filing such application, a hearing shall be held on the application, unless otherwise withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with Chapter 8.

### **C. Requirements for Conditional Use Permit**

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The board may impose such other conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to comply with the provisions set out in this Section in order to reduce or minimize the injurious effect of such conditional use upon and ensure compatibility with surrounding property and to better carry out the general intent of this ordinance. The board may establish expiration dates for the expiration of any conditional use permit as a condition of approval. A permit may be transferred to another owner or type of use without a rehearing before the board provided that previously approved conditions can be met.

### **D. General Requirements**

1. A conditional use permit shall only be granted provided the board makes specific findings that it:
2. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected;
3. Will minimize adverse effects to other property in the area in which it is located;
4. Is within the provisions of "Conditional Uses" as set forth in this Ordinance; and
5. Conforms to all applicable provisions of this ordinance for the district in which it is to be located and is necessary for public convenience in that location and meets the specific standards below.
6. Shall be located so as to be compatible with the surrounding area and provide safety to those using the facility.

## **E. Specific Standards for Community Facility Activities**

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit shall be granted for the community facility activities specified below only when the standards established in this section are met as part of the condition for issuing the permit in the applicable zone districts.

1. Special Conditions for Administrative Services
  - a. There must be a demonstrated need for such activities to serve the neighborhood or the total community.
  - b. All lot, yard, and bulk regulations of the zone district shall apply.
  - c. Appropriate off-street parking requirements shall apply.
  - d. Fencing, screening, and landscaping shall be provided as required by Chapter 8, Section 14.504 to protect surrounding properties and reduce any potential adverse impact.
  - e. The site, landscaping and architectural plans shall be approved by the Lebanon Planning Commission.
2. Special Conditions for Personal and Group Day Care Facilities: The special conditions listed below only apply to day care facilities as defined. For purposes of this ordinance, day care facilities are classified into two types as defined below:
  - a. Day Care Home - includes day care in an occupied residence of not more than eight (8) children including children living in the home.
  - b. Day Care Center - includes day care for more than eight (8) pre-teenage children in any kind of building.
  - c. Day Care Home Requirements:
    - i. The required lot size, yard, and bulk regulations of the district shall apply. No variances shall be permitted for lots on which such use is to be located.
    - ii. All public utilities and sanitary sewers shall be available and connected to the site unless the site is over one (1) acre in size and sewer is not available. The Fire Department shall approve the facility for safety.
    - iii. All requirements of the State of Tennessee that pertain to the use shall be met.
    - iv. An outdoor play area of at least fifty (50) square feet per child in size shall be available and shall be fenced.
    - v. Fencing, screening, and landscaping shall be provided as required by Chapter 5, Section 14.504 to protect the surrounding area.
    - vi. A site plan shall be submitted in conjunction with the application for a conditional use permit.
  - d. Day Care Center Requirements: No such facility shall be permitted on a zone lot in a residential district unless such lot contains twice the lot area

requirements of the district except in the RPO District where the minimum lot size shall apply.

- e. No such facility shall be located on a minor residential street. Locations shall be limited to collector or arterial streets specified on the official major thoroughfare plan.
  - f. In commercial districts the side and rear yard requirements of the adjoining residential district, whichever has the highest standards, shall apply.
  - g. A fenced outdoor play area shall be provided of at least fifty (50) square feet per child.
  - h. All bulk and space regulations of the district shall be met.
  - i. Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick up or deliver children. The facilities shall provide for driveways that do not require any back-up vehicle movements to enter or exit the zone lot.
  - j. All public utilities and sanitary sewers shall be available at the site and connected.
  - k. All regulations of the State of Tennessee that pertain to the use shall be met.
  - l. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facilities.
  - m. Fencing, screening, and landscaping shall be provided as appropriate as required by Chapter 8, Section 14.504 to protect the surrounding area as well as the facility.
  - n. A site plan shall be submitted in conjunction with the application for a conditional use permit.
3. Special Conditions for All Other Personal and Group Care Activities
- a. All bulk regulations of the district shall be met.
  - b. The requirements of the accessory off-street parking regulations of this ordinance shall apply.
  - c. All regulations of the State of Tennessee shall be met.
  - d. All public utilities and sewage disposal shall be available and connected to the site, and the site and architectural plans for such a facility shall be approved by the Lebanon Planning Commission taking into account the above conditions as well as any other pertinent factors.
4. Special Conditions for Community Assembly
- a. No such facility shall be permitted on a zone lot unless it contains twice the lot area requirements of the districts.
  - b. All bulk regulations of the zone district shall apply.
  - c. Except for temporary non-profit festivals, fencing, screening, and landscaping shall be provided as required and meeting the standards of

Section 14.504.

- d. The location and operation of such a community assembly facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.
- e. All public utilities and sewage disposal shall be available to the site and connected.
- f. The site and/or architectural plans shall be approved by the Lebanon Planning Commission taking into account the above conditions.
- g. The conditional use provisions of this Section do not apply to religious activities, which are permitted in any district by right but subject to the requirements of Chapter 8.

5. Special Conditions for Cultural and Recreational Services

- a. No such activity shall be permitted on a zone lot unless it contains twice the lot area requirements of the zone district.
- b. All bulk regulations of the zone district shall apply.
- c. The off-street parking requirements of this ordinance shall apply.
- d. Fencing, screening, and landscaping shall be provided as required by Section 14.504 to protect the surrounding area.
- e. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties within the surrounding area.
- f. The site and architectural plans shall be approved by the Lebanon Planning Commission taking into account the above conditions.

6. Special Conditions for Community Education

- a. No such facility shall be permitted on a zone lot unless such lot contains twice the lot area requirements of the zone district.
- b. The traffic generated by such facility shall be safely accommodated along the streets that will provide access to the
- c. site.
- d. The location and design of such facilities shall not have an adverse effect upon surrounding properties.
- e. The off-street parking requirements of this ordinance shall apply.

7. Special Conditions for Health Care

- a. Minimum Lot Area: No health clinic shall be permitted on a zone lot unless it contains a minimum of ten thousand (10,000) square feet, or twice the lot area requirements of the district, whichever is greater.
- b. All other regulations of the zone district shall apply.
- c. There shall be provided along the entire site boundaries fencing, screening, and landscaping as required in Section 14- 504.

- d. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties within the surrounding area.
  - e. All public utilities and sewage disposal shall be available to the site and connected.
  - f. The site and/or architectural plans shall be approved by the Lebanon Planning Commission taking into account the above conditions.
  - g. The following activity classes and types may be permitted accessory to the Health Care Activities provided they appropriately complement the Health Care Activity, will not impose an adverse impact on the surrounding land use and be subject to all other provisions of the zoning district:
    - i. Community Facility Activities
    - ii. Commercial Activities Convenience Sales and Services Automotive Parking
    - iii. Food Service
    - iv. Medical Service
8. Special Conditions for Intermediate and Extensive Impact
- a. The location, size, and design of such facilities shall be such that the proposed development shall be as compatible as possible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
  - b. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
  - c. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.
  - d. The off-street parking requirements of the parking table shall apply or shall be determined by the board taking into account characteristics of the use.
  - e. There shall be provided along the entire site boundaries fencing, screening, and landscaping as required in Section 14.504.
  - f. The site plan for such facilities shall be approved by the Lebanon Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facility.
9. Secure Personal and Group Care
- a. All bulk regulations of the district shall be met.
  - b. The requirements of the accessory off-street parking regulations of this ordinance shall apply.
  - c. All regulations of the Federal Government and the State of Tennessee shall be met.

- d. No facility shall be located within 500 feet of a residence, public school or a daycare when measured from the front door to front door in a straight line.
- e. No facility shall be located on a platted lot directly adjacent to a residence, a public school, or a day care.

#### **F. Specific Conditions for Commercial Activities**

A conditional use permit shall not be granted for the commercial activities specified below unless the conditions established therein are met as a part of the conditions for issuing such permit in the applicable districts.

##### **1. Special Conditions for Consumer Repair**

- a. The operation of any such repair or servicing activity shall be done within completely enclosed buildings, and no outside storage shall be permitted.
- b. The operation of the activity shall not include the storage or use of flammable, explosive, or toxic materials or liquids.

##### **2. Special Conditions for Extended Stay Hotels or Motels: An Extended Stay Hotel or Motel shall comply with the following Conditions:**

- a. Such facility shall not exceed three (3) stories in height and shall have no more than 20 rooms for each acre of land.
- b. Such facility shall include a 24-hour daily attendant at the front desk.
- c. Each guest room shall have a minimum of three hundred twenty-five (325) square feet per room.

##### **3. Bed and Breakfast Homestay**

The following provisions apply to traditional bed and breakfasts as well as participation in such commercial short-term rental platforms as Airbnb or VRBO.

- a. The owner of the residential property or the operator of the bed and breakfast/Airbnb shall reside in the residential unit at least six (6) months out of any calendar year. If two (2) or more owners own equal shares, at least one (1) of the owners shall reside in the unit. It is not required for an owner of the property to be present during the homestay rental period.
- b. Operators of bed and breakfasts, Airbnbs, or similar shall register their business with the City of Lebanon.
- c. A maximum of one (1) off-street parking space shall be provided for each guest room. The design of the parking spaces and their number and location shall also take into account the owner's parking spaces. Fencing, screening, and landscaping may be required to buffer and protect adjoining properties. Large expanses of paved area shall be avoided. No more than two (2) such spaces shall be located in the front yard.
- d. A maximum of four (4) guest rooms shall be available for rent, and such rooms shall not occupy more than fifty (50) percent of the total habitable floor area of the residential unit. A guest register shall be maintained and

made available to the Building Inspector or other enforcing officer.

- e. Meal service shall be limited to breakfast and shall be restricted to overnight guests only. No cooking facilities shall be available in any guest room.
- f. No exterior structural or architectural alterations or expansions, other than those necessary to ensure the safety of the building, shall be made to the building for the purpose of providing a bed and breakfast homestay.
- g. The maximum length of stay for any guest(s) shall be fourteen (14) consecutive days.
- h. The building shall comply with the International One and Two-Family Dwelling Code and shall be inspected prior to occupancy by the Chief Building Official and the Fire Chief and/or other enforcement officials. In the event the residential unit is a historic building, the board may consider the varying the strict application of the code requirements as long as the safety of the guests is not compromised.
- i. One (1) sign may be permitted in accordance with the Lebanon Sign Ordinance in Chapter 6.

#### 4. Special Conditions for Adult Entertainment Activities

- a. By virtue of the adoption of this ordinance, the Lebanon City Council finds that adult entertainment activities, by their very nature, historically have been accompanied by secondary effects that are detrimental to the public health, safety, morals, and welfare. These secondary effects include a wide range of criminal and other unlawful activities such as prostitution, narcotics and liquor law violations, breaches of the peace, assaults, sexual conduct involving physical contact between patrons or between entertainers and patrons and employment of or service to minors. The secondary effects also adversely impact residential neighborhoods, viable business districts and can cause declines in property values. These special conditions are necessary to ensure that adult entertainment activities are located a reasonable distance away from places where minors regularly gather, to protect the character of residential areas from the secondary influences, to protect the economic vitality of nearby businesses and to avoid concentration of adult businesses. In the consideration of an application for a conditional use permit for an adult entertainment activity the board of appeals shall take the above findings of fact into account
- b. No adult entertainment activity shall be located within one thousand (1,000) feet of a residentially zoned district, the property line of a lot devoted to a residential use, church, day care facility, public library, private/public educational facilities that serve students age seventeen (17) or younger, funeral home/parlor, public park, any business licensed or permitted to sell beer or intoxicating liquors or any other adult entertainment activity or use. The distance requirement specified herein shall be measured in a straight line from and to the nearest roofed structure of the respective premises without regard to intervening structures or objects.

- c. A certified and signed survey prepared by a licensed surveyor or engineer showing distance measurements in accordance with b. above to all listed uses shall be submitted with any application for a conditional use permit for an adult entertainment activity.
  - d. No adult entertainment activity shall be conducted in any manner that permits the observation of any activities inside a building used for adult entertainment purposes from outside the building.
5. Special Conditions for Major Entertainment Services Activities
- a. The location, size, and design of such facilities shall be situated so that the proposed development shall not adversely impact the development within the surrounding area.
  - b. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
  - c. The off-street parking requirements shall be based on the type of use and the needs of the use to adequately accommodate the expected groups of people.
6. The site plan for such facilities shall be approved by the Lebanon Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facilities. When an application for a Major Entertainment Services permit includes amusement parks, sports arenas, fairgrounds, racetracks, and similar recreational pursuits, the following requirements shall be observed.
- a. Access to such facility shall be by a paved public road and such road shall be either a major arterial or major collector. Residential streets should be protected and not used as a main entrance.
  - b. For those facilities which are not utilized on a regular and frequent basis, parking may be provided on adjacent parcels of land provided further that any parcel so used is located no more than five hundred (500) feet from the lot boundary.
  - c. Adequate housing for workers shall be provided at amusement parks.
  - d. Any lighting provided at such facilities shall be designed in accord with Chapter 5, Section 14-508.
  - e. Accessory uses may be permitted in conjunction with the principal use of the property provided that such uses are physically designed as a part of or within the principal structure. Such uses may include food sales, gift or souvenir shops, and similar activities.
7. When an application for a Major Entertainment Services permit includes a private campground, the following standards shall be met:
- a. Such campground shall have on-site management;
  - b. The campground may include convenience commercial establishments such as camp stores, laundry facilities, and personal services; provided that such convenience establishments are subordinate to the recreational

character of the campground; are located, designed, and intended to serve exclusively the patrons staying in the campground; and such establishments and their parking areas shall not occupy more than ten (10) percent of the area of the park or one (1) acre whichever is smaller;

- c. Such campground shall meet the following standards:
  - i. Minimum size - ten (10) acres.
  - ii. Maximum density – ten (10) campsites per gross acre.
  - iii. Sanitary facilities, including flush toilets and showers - within three hundred (300) feet walking distance of each campsite.
  - iv. Potable water supply - one spigot for each four (4) campsites.
  - v. Trash receptacle – adequate to serve the entire campground.
  - vi. Parking – one (1) space per campsite.
  - vii. Picnic table – one (1) per campsite.
  - viii. Fireplace or grill - one (1) per campsite.
  - ix. Administration or safety building – open at all times wherein a portable fire extinguisher in operable condition and first aid kit is available, and a telephone is available for public use.
8. Such campground shall meet the following design requirements:
  - a. A buffer yard that will substantially screen the campsites from view of public rights-of-way and neighboring properties shall be provided around or near the perimeter or that part of the campground containing campsites. Such vegetation or fence shall be maintained in good condition at all times.
  - b. Each campground shall reserve at least twenty-five (25) percent of its total area as natural open space excluding perimeter screening. Such open space may include recreation and water areas, but may not include utility areas, administration buildings, commercial areas, or similar activities.
  - c. Each campsite shall have a minimum setback of twenty-five (25) feet from any exterior boundary line.
  - d. Each campsite and all other buildings shall have a minimum setback from any public road of fifty (50) feet.
  - e. Each separate campsite shall contain a minimum of 3,200 square feet. (A campsite shall be considered to consist of trailer or tent space, parking space, picnic table, fireplace, and one-half (1/2) the roadway providing access).
  - f. Each campsite shall be directly accessible by an interior travel way. All such travel ways shall be paved.
  - g. All interior roads shall be a minimum of ten (10) feet wide for one-way traffic and eighteen (18) feet wide for two-way traffic.
  - h. Each campground shall provide a trailer dump station for the disposal of holding tank sewage.

9. Check Cashing Services

- a. At least 500 ft. from the nearest residential district.
- b. At least 1320 ft. from any other check cashing services.

10. Automotive Repair and Cleaning, Automotive Servicing, and Vehicular, Craft and Related Equipment Sales which includes:

a. Automotive Repair and Cleaning

- i. Auto Cleaning and Detailing Services
- ii. Auto Engine Repair and Replacement Shops
- iii. Auto Glass Repair and Replacement Shops
- iv. Auto Inspection and Diagnostic Services
- v. Auto Paint and Body Shops
- vi. Auto Towing Services
- vii. Auto Transmission Repair Shops
- viii. Car Washes
- ix. Compressed Natural Gas (CNG) Station
- x. Gasoline, Diesel Fuel, and Oil Sales and Services for Cars and
- xi. Trucks of All Sizes
- xii. Radiator and Muffler Shops
- xiii. Tire Retreading and Repair Shops

b. Automotive Servicing

- i. Gasoline Service Stations
- ii. Sale and Installation of Tires, Batteries, Accessories, and
- iii. replacement Items
- iv. Lubricating Services
- v. Performance of Minor Repairs (brakes, tune-up and similar service)
- vi. Wheel Alignment

c. Vehicular, Craft, and Related Equipment Sales

- i. Boat and Motor Dealers
- ii. Mobile Home Dealers
- iii. Motor Vehicle Dealers
- iv. Motorcycle Dealers
- v. Motor Vehicle Leasing
- vi. Recreational Vehicles, including all-terrain vehicles (ATV)
- vii. Utility Trailer Dealers

A site drawing showing compliance with all relevant conditions to the requested use in this section or a site drawing showing compliance with some of the relevant conditions accompanied by a list of conditions not met by the plan shall be provided with the initial application for consideration by the Board of Zoning Appeals as the basis for the hearing of the conditional use permit request.

- a. There shall be a physical separation of any automobile display area or any parking area from the back of sidewalk or public right-of-way. The separation shall be provided by one of the following options based on the distance from the back of sidewalk or right-of-way:
  - viii. < 20 feet - A 2 feet to 3 feet high masonry wall shall be provided along the entirety of the parking area facing the street.
  - ix. > 20 feet - A 2 feet to 3 feet high masonry wall shall be provided along the entirety of the parking area facing the street; OR evergreen shrubs may be used to provide the screen. Such shrubs must be at least two (2) feet tall at planting and anticipated to grow to at least four (4) feet tall at maturity. Parking lot screening, at a minimum, must consist of a compact hedge of evergreen shrubs spaced to ensure closure into a solid hedge at maturity.
- b. Vehicular ingress-egress points shall not exceed 20% of total road frontage. Location of such point shall be approved by the City Traffic Engineer.
- c. Service bays and overhead service area doors shall not be visible from the public right-of-way.
- d. All buildings, storage, or exterior work areas shall be at least 100' from any property zoned to allow residential uses or is currently being used as residential at the time of application.
- e. Inoperable vehicles, outdoor storage, or automobile repair activities shall be located to the rear or side of the building and shall not be visible from any public right-of-way.
- f. All exterior storage or work areas shall be screened from all adjacent property with a site proof fence to height of no less than 6 feet tall in addition to any other buffer yard and landscaping requirements.
- g. Automobile parts and salvage/junk automobiles shall not be stored on any outdoors portion of the site.
- h. No existing Automotive Repair and Cleaning, Automotive Servicing, and Vehicular, Craft and Related Equipment Sales shall be within 1,000 linear feet, measured along right-of-way line of the proposed location.
- i. Parking (excluding employee and patron spaces), storing, and/or display of automobile's inventory shall occur only in areas designated in the special use permit application. Driveway aisles, public right-of-way, and landscaped areas shall not be blocked.
- j. All driveways and parking areas, including automobile storage and display

areas, shall be surfaced with asphalt, concrete, or other hard dustless surface material.

- k. Minimum Size of lot 1.5 acre (unless all activities, storage, and display are within an enclosed building)
- l. The facilities must be screened with landscaping along front, side, and rear lot lines. The landscaping shall include trees that are at least 7 feet tall. At least 50% of the trees need to be evergreens. Bushes or shrubs that are at least 3 feet in height at time of planting and must be planted linearly every three feet on center.
- m. No flat roofs for any newly constructed structures.
- n. No barbed wire, razor wire, or electric fencing is allowed.

#### 11. Specialty Smoke and Vape Shops

A conditional use permit shall not be granted for specialty smoke and vape shops unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

- a. Shops must be 500 feet from a school, church, or daycare.
- b. Shops must be 1,320 feet from another Specialty Smoke and Vape Shop.

### **G. Specific Standards for Agricultural and Extractive Activities**

A conditional use permit shall not be granted for the agricultural and extractive activity specified below unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

- 1. Special Conditions for Crop and Animal Raising
  - a. This shall apply to the keeping of farm animals only.
  - b. Provided however, that hog pens and confinement chicken houses with more than fifteen (15) chickens shall be prohibited.
  - c. Minimum lot size shall be three (3) acres for keeping, raising, or grazing horses, cattle, goats, or sheep.
  - d. This shall not be construed to include any kind of confined animal feeding operation.
- 2. Special Conditions for Plant and Forest Nurseries
  - a. The minimum lot size shall be twice the district requirement.
  - b. Any buildings shall be appropriately screened from adjoining residential property.
  - c. Off-street parking shall be provided adequate for the size of the operation.

### **H. Specific Standards for Residential Activities**

A conditional use permit shall not be granted for the residential activities specified below unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

1. Special Conditions for Semi-Permanent Residential

- a. Off-street parking shall be provided in the amount of one (1) space for each rooming unit plus two (2) spaces for the use.
- b. Fencing, screening, and landscaping may be required by the Lebanon Planning Commission based on the location of the building with relation to adjacent buildings to protect adjoining uses.
- c. All public utilities and public sewer service shall be available.
- d. The building shall be first approved for such use by the Lebanon Fire Department.
- e. The site plan for such activity shall be approved by the Lebanon Planning Commission.

**I. Specific Standards for Floodway and Flood-fringe Districts**

1. A conditional use permit shall not be granted for any use requiring such a permit until the Board of Zoning Appeals has:
  - a. Reviewed the contents of the plan required by Chapter 9, Section 14.401 (D) (2);
  - b. Made such determinations as required by Chapter 9, Section 14.401 (F) (13) where necessary;
  - c. Considered all relevant factors specified below; and
  - d. Attached such conditions as it deems necessary for the protection of the public health, safety, and welfare.
2. Factors Upon Which the Decision of the Board shall be Based: In its review of any conditional use proposed for location within any area subject to flood, the board shall consider all relevant factors specified in Chapter 4 of this Title, and;
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other lands or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - e. The importance of the services provided by the proposed facility to the community.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood-water expected at the site.
  - l. Such other factors which are relevant to the purposes of this Title.
3. Conditions Attached to Conditional Uses: Upon consideration of any conditional use proposed for location within any area subject to flood, the board may attach such conditions to the granting of such use as it deems necessary to further the purposes of this Title. Among such conditions, without limitations because of specific enumeration, may be included:
- a. Modification of waste disposal and water supply facilities.
  - b. Limitations of periods of use and operation.
  - c. Imposition of operations controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
  - e. Flood proofing measures such as those set forth in Chapter 9 of this Title.

#### **J. Conditional Use Permit Appeals**

Any person or agency of the city government may appeal to a court of competent jurisdiction from the Board's decision as provided under statutes of the State of Tennessee. The judgment and findings of the board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final, and subject to review only for illegality or want of jurisdiction.

#### **14.809. Amendments**

- 1. The City Council may, from time to time, amend this Title by changing the boundaries of districts or by changing any other provisions whenever they find the public necessity, convenience, and general welfare require such an amendment.
- 2. Initiation of Amendment: Amendments may be initiated by the City Council, Lebanon Planning Commission or by an application of one or more owners of property affected by the proposed amendment.
- 3. Application for Amendment Fee: An application by an individual for an amendment shall be accompanied by a fee in an amount as established by the City Council payable to the City, and shall also be accompanied by maps, drawings, and data necessary to demonstrate that the proposed amendment is in general conformance with the adopted land use plan of the area and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with application.
- 4. Review and Recommendations by the Lebanon Planning Commission. The

Lebanon Planning Commission shall review and make recommendations to the City Council on all proposed amendments to this Title. The review and recommendations of the Lebanon Planning Commission shall be based upon the land use or general plan for the area as adopted and such other considerations as the Lebanon Planning Commission finds to be applicable to the case.

5. Public Hearing and Notice of Hearing: A public hearing shall be held on all proposed amendments to this ordinance prior to enactment by the City Council. Notice of such hearing shall be displayed as follows: Notice in a newspaper of general circulation within the city shall be published at least fifteen (15) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification and it may contain a graphic illustration of the area.
6. Amendments Affecting Zoning Atlas: Upon enactment of an amendment to the Zoning Atlas that is a part of this ordinance, the Planning Department shall cause such amendment to be placed upon the Zoning Atlas noting there on the ordinance number.
7. Effect of Denial of Application: Whenever an application for an amendment to the text of this Title or for change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for six (6) months following such denial, except in the following cases:
  - a. Upon initiation by the City Council or Planning Commission;
  - b. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
  - c. When the previous application was denied for the reason that the proposed zoning would not conform to the land use plan, and the land use plan has subsequently been amended in a manner which will allow the proposed zoning.

#### **14.810. Remedies and Enforcement**

##### **A. Complaints Regarding Violations**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Chief Building Official or Planning Department. The Chief Building Official or Planning Department shall record properly such complaint, immediately investigate, and take action as provided in this ordinance.

##### **B. Penalties for Violation**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall be punishable as provided for by law. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participated in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

### **C. Remedies**

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building or other structure or land is or is proposed to be used in violation of this ordinance, the Chief Building Official or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the Chief Building Official may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or re-establishment of service be withheld there from until such time as the building or other structure or premises are no longer in violation of these regulations, and each such utility or department shall comply with such request.

#### **14.811. Annexations**

All applications for a request for annexation into the city limits shall be required to submit the following information as part of their application narrative:

1. Property Address and/or Tax Map, Group and Parcel Identification.
2. Acreage to be annexed.
3. Proposed zoning.
4. Proposed use.
5. Utilities
  - a. Sewer
    - i. Is property currently served by City of Lebanon Public Sewer?  
(a).If not, identify an estimated cost to serve as is.
    - ii. Proposed and anticipated type of development include density if applicable.  
(a).Estimated sewer flow capacity anticipated from the residential development.  
(b).Estimated sewer flow capacity from any proposed commercial or industrial development.
    - iii. Preliminary sketch including pipe sizes, for any offsite public sewer extension anticipated to be necessary to serve the development.
    - iv. Identify if the proposed onsite sewer is to be private, public, or a combination. City of Lebanon reserves the right to determine if sewer is

to be public or private.

b. Water

- i. Is property currently served by City of Lebanon Public Water or another provider?
  - (a). Identify if other.
  - (b). If water is not available, identify an estimated cost to serve as 1s.
- ii. Proposed and anticipated type of development include density if applicable.
  - (a). Estimated sewer flow capacity anticipated from the residential development.
  - (b). Estimated water capacity to serve any proposed commercial or industrial development.
- iii. Preliminary sketch including pipe sizes, for any public (required) offsite water extension anticipated to be necessary to serve the development.
- iv. Identify if the proposed onsite water is to be private, public, or a combination. City of Lebanon reserves the right to determine if water is to be public or private.

c. Gas

- i. Is property currently served by City of Lebanon Gas Department or another gas provider?
  - (a). Identify if other.
- ii. Contact Gas provider and provide written documentation that gas service is available to serve the anticipated development.
- iii. Estimated cost to serve the property as it exists at the time of application, include line size.

d. Roads

- i. How many acres of roadway is annexed, if applicable?
  - (a). Include width and length of roadway.
  - (b). Is the annexed road a State Route?
- ii. Is a Traffic Impact Study (TIS) planned to determine necessary improvements to existing roadways?
  - (a). Estimated amount of road infrastructure in width and length of proposed development.
  - (b). Anticipate new roads to be public, private or a combination? City of Lebanon reserves the right to determine if roads are to be public or private.

6. Estimated number and height of buildings proposed.

7. Estimated number and type of residential units proposed.

8. Additional information required in TN Code § 6-51-102 (2015), Plan of Services, including but not limited to:
  - a. Police Protection
  - b. Fire Protection
  - c. Parks and Recreation Services
  - d. Solid Waste Collection Public or Private
  - e. Street Lighting by Developer
  - f. School Attendance
9. Economic Development
  - a. Narrative explaining reasons for an annexation request.
  - b. For non-residential annexations, provide economic development analysis including anticipated tax revenue and job creation.
10. The Planning Department and Engineering Department reserves the right to reject any application that does not provide a complete annexation application and narrative.

#### **14.812. ADA Reasonable Accommodations**

##### **A. Purpose**

The purpose of this subsection is to implement a procedure for processing requests for reasonable accommodation for housing to the City's zoning ordinance, for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131, et. seq.) ("ADA"). For purposes of this section, a "disabled" person is an individual that qualifies as disabled or disabled under the FHA or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation for housing as provided by the FHA and the ADA, pursuant to the procedures set out in this section.

##### **B. Notice to the Public of Availability of Accommodation**

The City shall display a notice on the City's public notice bulletin board (and shall maintain copies available for review in the Planning Department and the Commissioner of Finance and Revenue's Office), advising the public that disabled individuals (and qualifying entities) may request a reasonable accommodation as provided herein.

##### **C. Application**

A request for reasonable accommodation under this section shall be upon a written reasonable accommodation request form maintained by the Planning Department. The reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in Subsection 14.812.(H), below.

1. Confidential Information

Should the information provided by the disabled individual to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual. If an individual submits such medical information, the City, to the extent allowed by law, will treat such medical information as confidential information of the disabled individual. The City shall record whether the information provided establishes the individual's disability status, and the medical information provided shall be returned to the individual and no copies, in any form whatsoever, shall be retained by the City.

## 2. Fee

There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section, and the City shall have no obligation to pay a requesting party's attorney's fees or costs in connection with the request.

3. City Assistance. The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, and appearing at a hearing, etc., to ensure the process is accessible.

## **D. Findings for Reasonable Accommodation**

In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that he/she, or the residents of the housing for which this request is made, are protected under the FHA or ADA by demonstrating that he/she or the residents of the proposed housing are people with disabilities, as defined by federal disability law.

1. The requesting party shall demonstrate that the proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is the subject of the request. The following factors shall be considered, among other relevant factors including judicial interpretation of federal disability law:
  - a. The disabled individuals shall establish that they are disabled or disabled, as defined in the Fair Housing Act (FHA) or the Americans with Disabilities Act (ADA, and therefore entitled to protection under the FHA or ADA, such that they have a physical or mental impairment which substantially limits one (1) or more major life activities, or that they have a record of having such impairment, or that they are regarded as having such impairment.
  - b. If a request for reasonable accommodation is submitted by an operator of a residence that provides housing to disabled individuals, the operator shall be required to establish that the operator is licensed to provide such housing to disabled individuals in accordance with any federal or state law.
  - c. The requesting party shall demonstrate that the requested accommodation is both reasonable and necessary (as interpreted by the courts) to afford

the disabled individuals served by the housing an equal opportunity to use and enjoy the housing, including that the proposed accommodation is therapeutically necessary and actually alleviates the effects of a handicap or disability, with a site-specific assessment in regard to the particular property in that regard.

- d. The requesting party shall demonstrate that the proposed accommodation does not constitute a fundamental alteration of the City's zoning scheme or other City program or policies, and that it does not impose an undue financial or administrative burden on the City.
2. A request for reasonable accommodation to permit more than eight (8) unrelated individuals to occupy a community residence shall be granted only when the requesting party also meets the conditional use standards for community residences in subsection 14.808.H. In this case, the process will involve the Planning Department and not the Planning Commission or the City Council.
3. A request for reasonable accommodation to permit a community residence for more than five (5) disabled individuals for which there is no license or certification available shall also meet the standards for the similar proposed size and type of community resident in subsection 14.808.H., as applicable. In this case, the process will involve the Planning Department and not the Board of Zoning Appeals or the Planning Commission. In addition, the applicant must demonstrate that the proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence, that the staff will be adequately trained, that the home will emulate a biological family and be operated to achieve normalization and community integration, and that the rules and practices governing how the home is operated will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.
4. The foregoing shall be the basis for a written decision with findings of fact upon a reasonable accommodation request made to the Planning Department.

#### **E. Planning Department Review and Decision**

The Planning Department shall act on requests for reasonable accommodation. The Planning Department shall thereafter issue a written determination within thirty (30) calendar days of the date of receipt of a completed application and may, in accordance with federal law, (1) grant the accommodation request, (2) grant a portion of the request and deny a portion of the request, or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any such denials shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested or hand delivery, receipt signed by the recipient. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Planning Department may, prior to the end of said thirty (30) calendar day period, request additional information from the

requesting party, specifying in sufficient detail what information is required. The requesting party shall have fifteen (15) calendar days after the date of the request for additional information to provide the requested information, and the Planning Department shall issue a written determination within thirty (30) calendar days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said fifteen (15) calendar day period, the Planning Department shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.

#### **F. Appeal**

An appeal from a decision of the Planning Department shall be handled exclusively by Board of Zoning Appeals within thirty (30) days from the date of filing of the application with the Planning Department. Any person may appeal a decision of the Board of Zoning Appeals by writ of certiorari to an appropriate state court.

#### **G. Stay of Enforcement**

While a request for reasonable accommodation for a community residence, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the requesting or appealing party.

#### **H. Request Form for Reasonable Accommodation.**

1. Contents of reasonable accommodation request form:
  - a. Name and contact information of the Applicant;
  - b. Information regarding property at which reasonable accommodation is requested, including the address and legal description of such location as well as ownership of the subject property;
  - c. Describe the accommodation and the specific regulation(s) or procedure(s) from which accommodation is sought;
  - d. Reasons the accommodation may be necessary for the requesting party or the individuals with disabilities seeking the specific accommodation, and if relating to housing, why the requested reasonable accommodation is necessary to use and enjoy the housing;
  - e. Describe qualifying disability or handicap;
  - f. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation;
  - g. All certified recovery residences must provide proof of satisfactory, fire, safety, and health inspections as required by codes adopted by the City Council and as amended from time to time;
  - h. Signature of requesting party;
  - i. If there will be an on-site supervisor or manager, provide the name and

contact information (phone and email) for each;

- j. Date of request;
  - k. Owner's consent for application.
2. A requesting party who seeks a reasonable accommodation to house more than eight (8) unrelated individuals in a community residence as provided in subsection 14.812.D. shall also complete and submit the form the City requires of all applications to establish a community residence.

### **I. Expiration of Approvals**

Approvals of requests for reasonable accommodation shall expire within one hundred and eighty (180) days if not implemented.

### **14.813 Vested Rights**

In accordance with Tenn. Code Ann. § 13-3-413, this section details the vesting procedure for developments in the City of Lebanon.

- 1. A vested property right shall be established upon the submittal of a preliminary development plan or a final development plan when no preliminary development plan is required.
- 2. Development plans shall be submitted through the official means of application for the City of Lebanon for one of the development plan types listed in the following table and in accordance with the substantial compliance requirements further described in this section.
- 3. No other application type in the City of Lebanon shall establish vested rights.

Process	Preliminary Development Plans	Final Development Plans
Site Plan	Preliminary Site Plan <sup>1</sup>	Final Site Plan

- 1. Preliminary Site Plans shall not be required when a site plan is exempted from Planning Commission review.
- 4. The vested property rights shall run with the property for the duration of the development process of the approved plan unless the plan establishing the vested rights expires, as described in this section, or are otherwise terminated in accordance with Tenn. Code Ann. § 13-3-413(f).
- 5. Phasing
  - Developments may be approved as multi-phase plans. The preliminary development plan that establishes the vested rights shall include the proposed phasing of the project when it is first submitted to secure the rights given to a multi-phased development. The phasing lines may be adjusted throughout the development process.
  - Development plans may be phased at a later stage of the development process but shall not be conferred upon the status of a multi-phased plan for the purposes of vested rights if not approved on the preliminary development plan.
  - Any given property shall be limited to one active preliminary development plan at any given time. Preliminary development plans shall be considered active from

vesting date until all final development plans based on that preliminary development plan have been approved by the City.

## 6. Amendments

- Amendments to approved preliminary or final development plans may be submitted by means of an official application to the City through the revision process under the same approved application number or if otherwise directed by Staff under a new application number, which shall then indicate in the new application name that it is an amendment or revision and to which previous application number it is amending.
- An amendment to an approved development plan by the developer must be approved by the City to retain the protections of the vested property right.
- An amendment may be denied based upon a written finding by the local government that the amendment:
  - a. Alters the proposed use;
  - b. Increases the overall area of the development (measured by disturbed area);
  - c. Alters the size of any nonresidential structures included in the development plan;
  - d. Increases the density of the development so as to affect traffic, noise or other environmental impacts; or
  - e. Increases any local government expenditure necessary to implement or sustain the proposed use.
- If an amendment is denied based upon such a written finding, then the applicant may either proceed under the prior approved plan with the associated vested property right or, alternatively, allow the vested property right to terminate and submit a new application under this section.
- Notwithstanding this subsection, a vested property right shall not terminate if the City determines, in writing, that it is in the best interest of the community to allow the development to proceed under the amended plan without terminating the vested property right.

## 7. Expiration of Vested Rights

- A site plan will expire if the following time frames elapse from the Planning Commission approval date of a preliminary site plan or approval of a final site plan when no preliminary site plan is required if all relative development benchmark actions have not been completed as described, consistent with Tennessee Code Annotated (TCA) § 13-3-413:
  - 3 Years - if a grading permit has not been secured and site preparation has not commenced.
  - 5 Years – if a grading permit has not been maintained, building permit has not been secured, and construction has not commenced.
  - 10 Years – if a building permit has not been maintained and construction has not been completed for a single-phase project.
  - 15 Years – if a building permit has not been maintained and construction has not been completed for a multi-phase project.

- Prior to any of these expiration benchmarks being reached the applicant may request an extension from the Planning Commission for the plans as approved. The date to which Planning Commission hears the request must be prior to the expiration date in question.
- Should the site plan expire, a new application will need to be submitted and receive Planning Commission approval compliant with all relative codes at the time of the new application submittal.

#### 8. Substantial Compliance

- Substantial compliance means that an application includes all required documents, plans, and forms, and that each submission is complete, accurate, and conforms to the City of Lebanon zoning ordinance, subdivision regulations, and all other applicable regulations. The application must demonstrate that the proposed plan meets the intent and substantive requirements of all applicable codes, even if minor, technical, or non-material errors or omissions are present.
  - To be deemed substantially compliant, an application must:
    - Include all documents, plans, and forms as required by the City's application checklist and development procedures.
    - Ensure that all submissions are internally consistent, to scale, and legible.
    - Demonstrate general conformity with:
      - The Zoning Ordinance
      - The Subdivision Regulations
      - All relevant building codes, engineering standards, utility requirements, and design criteria.
    - Address any public health, safety, and welfare concerns associated with the proposed development.
    - Include any supporting studies or documentation (e.g., traffic impact analysis, drainage reports, utility availability letters) as applicable or required.
  - Substantial compliance does not preclude future minor amendments, but the application must clearly demonstrate intent to fully comply with all mandatory provisions and not contain any material defects that would:
    - Preclude meaningful review by City Staff or approving authorities,
    - Result in nonconformance with adopted plans or ordinances, or
    - Compromise the public interest or administrative integrity of the approval process.
  - The City of Lebanon shall maintain and publish a current list of required documents, forms, and plan types necessary for a complete application. Applicants are responsible for verifying and including all required components before submission.
9. A vested right does not preclude the City's enforcement of any development standard in accordance with any circumstances described in Tenn. Code Ann. § 13-3-413(g).
10. Unless specifically addressed herein, all other provisions of Tenn. Code Ann. § 13-3-413 are adopted and incorporated by reference.

## 11. Site Plan Definition & Requirements

- A site plan is required prior to obtaining a permit for the addition of a greater than two residential units, any non-residential structures, for the addition of parking lots and other non-residential site improvements on lots of record. A site plan may be required under other circumstances as described in this or any other title.
- Generally, a preliminary site plan shall show to the full extent the scope of a development, all site improvements that are intended for the proposed use of the site, and their compliance with zoning and any other applicable regulations.
- Generally, a final site plan shall show in full detail the scope of development or phase of a development, all site improvements that are intended for the proposed use of the site that is to be permitted as a result of the approval of the plan and their compliance with all applicable regulations.
- The minimum requirements of a site plan are listed in the Preliminary Site Plan Checklist & Final Site Plan Checklist. Additional information needed to demonstrate compliance with any and all regulations may be required by City Staff at any time.