

**ZONING ORDINANCE:**

AN ORDINANCE PROVIDING FOR AND PRESCRIBING A ZONING PLAN FOR THE TERRITORY WITHIN THE CORPORATE LIMITS OF THE TOWN OF LOOKOUT MOUNTAIN; REGULATING THE ERECTION, CONSTRUCTION, AND ALTERATION OF BUILDINGS; REGULATING THE HEIGHT, NUMBER OF STORIES, AND THE SIZE OF ALL YARDS AND OTHER OPEN SPACES SURROUNDING BUILDINGS; REGULATING THE DENSITY OF POPULATION; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND PROVIDING FOR ITS ENFORCEMENT, CHANGES AND AMENDMENTS.

WHEREAS, by the provisions of Chapter 519, Private Acts of Tennessee of 1933, the Board of Commissioners of the Town of Lookout Mountain is authorized to establish districts or zones within its corporate limits for the purpose of regulating the use of land and buildings; and, WHEREAS, the Board of Commissioners of the Town of Lookout Mountain deems it necessary in order to lessen congestion in the streets, to secure safety from fire, panic and other dangers; to promote health and general welfare; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, to make and promulgate such regulations with reasonable consideration among other things, to the character of the district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout said Town in accordance with a comprehensive plan; now therefore,

BE IT ORDAINED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF LOOKOUT MOUNTAIN, TENNESSEE, That:

**SECTION 1:**

This Ordinance shall be known and cited as the "LOOKOUT MOUNTAIN ZONING ORDINANCE".

**SECTION 2: DEFINITIONS.**

For the purpose of this Ordinance, words and terms are defined as follows:

Words used in the present tense include the future; words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" is mandatory ad not directory.

**ACCESSORY BUILDING:** A building subordinate to the main building on the lot and used for purposes customarily incidental to those of the main building.

**ALLEY:** A way which affords only a secondary means of access to abutting property.

**BASEMENT:** A story partly underground and having at least one-half of its height above grade. A basement shall be counted as a story if the average vertical distance from the grade at the front of the building to the ceiling is over five (5) feet or if used for business purposes or for dwelling purposes by other than a janitor or his family.

**BUILDING:** Any structure used or built for the shelter or enclosure of persons, animals or chattels.

**BUILDING, HEIGHT OF:** The vertical distance between the curb level and the highest point of the roof surface of a flat roof, the deck line of a mansard roof and to a point two-thirds the height of a gable, hip or gambrel roof. If the building is set back from the street line, the height may be measured from the average elevation of the finished grade at the front of the

building, provided that the distance from the street line to the front of the building is not less than the height of such finished grade above the established curb level.

**CURB LEVEL:** The mean level of the established curb in front of the building. Where no such curb has been established, the Town Building Official shall establish such curb level.

**DWELLING: SINGLE FAMILY:** A building occupied or intended to be occupied as an abode of one family; provided, however, that no trailer shall be classified as a dwelling nor used for such purposes.

**MULTIPLE FAMILY:** A building or buildings occupied or intended to be occupied as an abode of more than one family.

**FAMILY:** Any number of individuals living together as a single housekeeping unit.

**FILLING STATION:** See Service Station.

**FRONTAGE:** All the property abutting on one (1) side of a street between two intersecting streets, measured along the street line.

**GARAGE, PRIVATE:** A building or space, part of a main building permitted in any residence district, providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

**LOT:** A parcel of land occupied or intended for occupancy by a building together with its accessory buildings, including the open space required under this Ordinance. For the purpose of this Ordinance, the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected.

**LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection.

**LOT, DEPTH:** The depth of a lot, for the purpose of this Ordinance, is the distance measured in the same direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite main rear line of the lot.

**LOT, INTERIOR:** A lot other than corner lot.

**LOT LINES:** The lines bounding the lot.

**LOT, THROUGH:** An interior lot having frontage on two streets, other than a corner lot.

**NON-CONFORMING USE:** A use that does not conform with the regulations of the use district in which it is situated.

**SERVICE STATION:** A building or lot where gasoline, oil and grease are supplied and dispensed to the motor vehicle trade, or where battery, tire and other similar services are rendered.

**STORY:** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and ceiling next above it. In computing the height of building, the height of basement shall not be included if below grade.

**STORY, HALF:** A story under a gabled, hipped or gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than three feet above the finished floor of such story.

**STREET:** A way which affords a primary means of access to abutting property, as distinguished from an alley.

**STREET LINE:** The line between the street and abutting property.

**STRUCTURE:** Anything constructed or erected, the use of which requires a permanent location on the land, or attachment to something having a permanent location on the land.

STRUCTURAL ALTERATIONS: Any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders.

TRAILER: Any unit used for living or sleeping purposes which is equipped or designed for equipment with wheels or similar devices used for the purpose of transporting said unit from place to place, whether by its own motive power or other means.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery, or as otherwise provided herein.

YARD, FRONT: A yard across the full width of the lot, extending from the front line of the building, including porches, to the front line of the lot.

YARD, SIDE: An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.

YARD, REAR: A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

### SECTION 3: DISTRICTS AND BOUNDARIES THEREOF.

In order to regulate and limit the height and size of buildings; to regulate and limit the intensity of the use of lot areas; to regulate and determine the areas of open spaces within the surrounding buildings; to classify, regulate and restrict the locations of trades; and to regulate the location of buildings designed for specific business, residential and other uses, the Town of Lookout Mountain, Tennessee, is hereby divided into districts of which there shall be four (4), known as:

Residential District No. 1

Residential District No. 2

Neighborhood Commercial District

Recreation District

The boundaries of Residential District No. 2 are as follows: beginning at the intersection of Watauga Lane and Whiteside Street, southeast on Whiteside Street to Forrest Avenue, southwest on Forrest Avenue to West Sunset Road, west on West Sunset Road to Bragg Avenue, south on Bragg Avenue to Scenic Highway, west on Scenic Highway to West Brow Road, north on West Brow Road to West Sunset Road, east on West Sunset Road to the southwest corner of Lot A of Mrs. H. W. Cook Subdivision, north on the west line of Lot A of Mrs. H. W. Cook Subdivision No. 2, west along the south line of Block 1, Lookout Mountain Company's Subdivision No. 2 to the southwest corner of Block 1, Lookout Mountain Company's Subdivision No. 2, north along the west line of Blocks 1 and 2, Lookout Mountain Company's Subdivision No. 2 to Watauga Lane, northeast on Watauga Lane to the point of beginning. Also included in Residential District No. 2 is the Town Common, formerly known as the W. I. Stoner and J. M. Nolan land, being bounded on the west by Watauga Lane, on the east by Scenic Highway, on the north by the Recreation District, and on the south by the Neighborhood Commercial District.

The Boundaries of the Neighborhood Commercial District are as follows: beginning at the intersection of Watauga Lane and Scenic Highway, north along Watauga Lane to the Town Common, formerly known as the W. I. Stoner and J. M. Nolan lane, east along the south line of

the Town Common to Scenic Highway, south along the Scenic Highway to the point of beginning.

The boundaries of the recreation District are as follows: beginning at a point at the intersection of Lookout Mountain Scenic Highway and West Brow Road; thence along the south line of West Brow Road north 48 deg. 15 min. west a distance of 82.8 ft.; thence north 81 deg. 30 min. west at a distance of 247.7 ft.; thence along the south line of Watauga Lane south 51 deg. 37 min. west a distance of 255.65 ft.; thence south 62 deg. 11 min. west a distance of 207.5 ft.; thence south 2 deg. 10 min. west a distance of 105.95 ft.; thence south 29 deg. 57 min. east a distance of 205.35 ft.; thence south 7 deg. 06 min. west a distance of 28 ft.; thence north 74 deg. 18 min. east a distance of 9 ft.; more or less, to the east line of Watauga Lane; thence leaving Watauga Lane north 74 deg. 18 min. east a distance of 250.1 ft.; thence north 29 deg. 30 min. east a distance of 63.3 ft.; thence north 4 deg. 44 min. west a distance of 97.6 ft.; thence north 52 deg. 21 min. east a distance of 420.4 ft. to the point of beginning. It is understood that the boundary line runs along a wall along West Brown Road and Watauga Lane, and the above description is a traverse line which was run outside of said wall in the street. All as shown on Betts Engineering co., Inc. Dwg. 4530-2-80, dated October 20, 1964, last revised May 11, 1965.

All other lands within the Town of Lookout Mountain comprise Residential District No. 1.

In the creation by this Ordinance of the respective districts, the Board has given due and careful consideration to the peculiar suitability of each district for the particular regulations applied thereto, and the necessary proper and comprehensive grouping and arrangements of the various uses and densities of population in accordance with a well considered plan for the development of the Town.

Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

#### SECTION 4: RESIDENTIAL DISTRICT NO. 1.

Uses Permitted:

Single-family dwellings.

Accessory buildings and uses customarily incident to the above uses, not involving the conduct of business, except that no private garage or other accessory building except a bath house may be detached from the main building. Swimming pools and bath houses for private use are allowable accessory uses and buildings, provided that plans are submitted to the Board of Commissioners to show adequate provisions safeguarded to protect the life and health of the citizens of the Town of Lookout Mountain. No such swimming pool or bath house will be permitted in the spaces provided herein for minimum front, side and rear yards.

Multiple-family dwellings, but only upon issuance by the Board of Commissioners of a conditional permit specifying the conditions, restrictions and limitations under which such multiple-family dwellings and accessory buildings and uses thereto may be constructed and used.



## SECTION 5: RESIDENTIAL DISTRICT NO. 2.

Uses Permitted:

Single-family dwellings.

Public schools.

Public libraries and buildings used exclusively by the Town Government for public purposes.

Churches, Sunday School buildings, and Parish houses.

Upon the land presently known as the Town Common any buildings and structures approved by the Board of Commissioners.

Accessory buildings and uses customarily incident to the above uses, not involving the conduct of a business, except that no private garage or other accessory building except a bath house may be detached from the main building. Swimming pools and bath houses for private use are allowable accessory uses and buildings, provided that plans are submitted to the Board of Commissioners to show adequate provisions for water drainage and provided their use is adequately safeguarded to protect the life and health of the citizens of the Town of Lookout Mountain. No such swimming pool or bath house will be permitted in the spaces provided herein for minimum front, side and rear yards.

Multiple-family dwellings, but only upon issuance by the Board of Commissioners of a conditional permit specifying the conditions, restrictions and limitations under which such multiple-family dwellings and accessory buildings and uses thereto may be constructed and used.

## SECTION 6: NEIGHBORHOOD COMMERCIAL DISTRICT.

Uses Permitted:

Retail grocery stores.

Retail drug stores.

Filling stations.

Barber shops or beauty shops.

Shops for the collection, distribution, dyeing and dry cleaning of garments and similar materials.

Offices.

Show or sales rooms, for retail sale of clothing.

Retail hardware stores.

Studios.

Retail gift shops.

Shoe sales and repair shops.

Accessory buildings, and uses customarily incident to the above uses, except that no trailers shall be used, and except that no exterior signs will be permitted upon any premises except for those lettered upon windows of the building, or exterior signs, uniform as to size, color, and lettering, upon the pattern of the sign presently located at the Village Casual Shop; provided, however, that before any additional signs of this character may be erected, individual applications therefor shall be made to the Board of Commissioners, or exterior signs to replace exterior signs upon individual application therefor to the Board of Commissioners of the Town of Lookout Mountain, without regard to the provisions prescribing size, coloring, pattern, etc., and without the necessity of any formal application for a variance.

## SECTION 7: RECREATION DISTRICT.

### Uses Permitted:

Non-commercial, non-profit lodge or meeting house with limited eating facilities for use in connection with a program to aid in the development of sound minds and bodies and to foster and promote a more stable and fulfilling family life.

Indoor swimming pools to be used in conjunction with 1, above, and for the same purposes.

An enclosed gymnasium to be used in conjunction with 1, above, and for the same purposes.

A bowling alley, adequately sound-proofed, to be used in conjunction with 1, above, and for the same purposes.

Other similar recreational facilities to be used in conjunction with 1, above, and for the same purposes.

Off-street parking, which shall be provided to accommodate the number of cars used by persons customarily using the facilities.

Accessory buildings and uses customarily incident to the above uses, except that no trailers shall be permitted.

All facilities will be designed and used to minimize possible discomfort or annoyance to neighbors from noise, traffic or any other incident to the use or operation of the facilities.

## SECTION 8: NON-CONFORMING USES.

The lawful use, size, location, or type of activity now being conducted of a "building" existing at the time of the original passage of this Ordinance, July 5, 1955, shall not be affected by this Ordinance, although such use, size, location, or type of activity does not conform to any provisions of the Ordinance; but no such use shall be extended to occupy any portion of the building not presently so occupied nor to any land outside such buildings. If such non-conforming building is removed or the non-conforming use of such building is discontinued. Every future use of such premises shall be in conformity with the provisions of this Ordinance. No signs visible from the exterior in connection with a non-conforming use shall be constructed except for those lettered upon windows of the building.

Such non-conforming building may not be enlarged in any respect.

The lawful use of "land" existing now and at the time of the original passage of this Ordinance, July 5, 1955, although such use does not conform to the provisions of this Ordinance, shall not be affected by this Ordinance; provided, however, that no such non-conforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Ordinance. If such non-conforming use is discontinued for a period of not less than one hundred (100) days, any future use of land shall be in conformity with the provisions of this Ordinance. Provided, however, that where "land" is now used to a use excluded from the district in which such "land" is located, and such use is not an accessory to the use of a main building located on the same lot or grounds, such non-conforming use of "land" shall be discontinued, and all material incident to such non-conforming use shall be completely removed by its owner not later than thirty (30) days from the passage of this Ordinance.

The provisions of this Ordinance are not to be considered as making lawful any use of structures or lands which had heretofore been forbidden by ordinance or law, nor as enlarging upon or

varying the non-conforming use heretofore permitted under the provisions of any prior or existing ordinance.

Nothing in this Ordinance shall be take to prevent the restoration and continued occupancy of a building destroyed to the extent of not more than fifty (50%) per cent by fire, explosion or other casualty, or act of God, or the public enemy, provided that such restoration be commenced with four (4) months of such destruction.

In the event any non-conforming building shall become, in the judgment of the Board of Commissioners of the Town of Lookout Mountain, so dilapidated as to be dangerous to public health, safety or welfare, such non-conforming use may thereupon be ordered by said Board to be discontinued. Thirty (30) days after written notification to such effect to the owner and/or occupants of such building, such non-conforming use shall become illegal, and no alteration or restoration shall have the effect of allowing resumption of such non-conforming use, regardless of whether such alteration or restoration be voluntary or in obedience to instructions of the Building Official or Board of Commissioners.

#### SECTION 9: HEIGHT AND AREA REGULATIONS – RESIDENTIAL DISTRICT.

In the Residential Districts, the height of buildings, minimum lot area, minimum lot width and the minimum yard dimension shall be as follows with respect to uses other than multiple family:

##### Building Height Limit:

A building or structure shall not exceed two and one-half (2 ½) stories nor thirty-five (35) feet in height, except for schools, churches, libraries, and public buildings.

##### Building site area required (Intensity of use):

The minimum building site area shall be one lot or parcel of 22,500 square feet in area for each single-family dwelling in the Single-Family District. Such parcels of land or lots shall have a minimum width of at least seventy-five (75) feet. Such minimum building site area and minimum width requirements shall also apply to each lot or parcel upon which a public school, public library, public building, church, Sunday School building, or parish house is erected. Each lot shall have a minimum road frontage of one hundred forty (140) feet. ( Amended Ordinance #36, 06/13/ 95 )

##### Front Yard Required:

There shall be a front yard having a depth of not less than thirty-five (35) feet. Where lots comprising twenty-five (25%) per cent or more of the frontage on the same street between intersections are developed with buildings having a variation in front yard depths of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided, however, that no front yard of more than fifty (50) feet shall be required. On through lots, the required front yard shall be provided on both streets.

##### Side Yard Required:

On each side of a building there shall be a side yard of not less than ten (15) feet.

##### Rear Yard Required:

There shall be a rear yard of not less than twenty-five (25) feet in depth.

In the Residential Districts, the height of buildings, minimum lot area, minimum lot width, and other conditions, restrictions and limitations with respect to multiple family construction and use shall be as specified in the section hereinafter pertaining to conditional permits.

#### SECTION 10: HEIGHT, AREA AND PARKING REGULATIONS – NEIGHBORHOOD COMMERCIAL DISTRICT.

In the Neighborhood Commercial District, the building height, area and parking regulations shall be as follows:

##### Building Height Limit:

A building or structure hereafter erected or structurally altered shall not exceed one story nor twenty (20) feet in height.

##### Area and Parking Regulations:

At least one off-street parking space at least eight (8) feet wide and twenty (20) feet long, shall be provided for every five hundred (500) square feet of gross floor area on the main floor of any building hereafter erected. If the Board of Commissioners should determine that the new business contemplated requires more or less off-street parking space than the minimum prescribed herein, such amount of off-street parking space as may be specified by the Board of Commissioners shall be provided. In lieu of providing such off-street parking on new projects, the owner may offer to dedicate and convey to the Town of Lookout Mountain a portion of his property abutting the street to provide parking space equivalent to the off-street parking space provided above.

#### SECTION 11: HEIGHT, AREA AND PARKING REGULATIONS – RECREATION DISTRICT.

In the Recreation District, the building height, area and parking regulations shall be as specified hereafter from time to time by the Board of Commissioners of the town of Lookout Mountain, upon application for a conditional permit for additional construction within said Recreation District. Such application for a conditional permit shall follow the general procedure prescribed below for conditional permits for multiple-family construction, and in granting or denying any conditional permit within the Recreation District, the Board of Commissioners of the Town of Lookout Mountain shall have due regard for considerations of traffic congestion and safety, health, noise, proximity to the Town common and any other consideration bearing upon the suitability of the proposed construction and use within the neighborhood and community.

#### SECTION 12: HEIGHT, AREA, AND USE EXCEPTIONS AND SUPPLEMENTS.

The following requirements or regulations qualify or supplement, as the case may be, the district regulations or requirements appearing elsewhere in this Ordinance:

Public buildings, schools and churches, where permitted in a district, may be erected to a height not exceeding seventy-five (75) feet when the front, rear and side yards are increased an additional foot for each foot such buildings exceed the height limit otherwise provided in the district in which the building is located.

Every part of a required yard shall be open from its lowest point to the sky unobstructed; except for the ordinary projection of sills, cornices, buttresses, ornamental features and caves; provided, however, that none of the above projections shall project into a minimum side yard more than 24 inches.

On corner lots in Residential Districts, the front yard regulations shall apply on both street sides.

A permit may be granted by the Board of Commissioners for the installation, construction, operation and maintenance of necessary public utility facilities of authorized public utilities; provided, however, that no structure or activity shall be permitted which is objectionable because of noise, dust, smoke, odor, or for any other reason, and, upon condition that the location and building or structure plans be approved by the Board of Commissioners. The height of any building or structure shall not exceed one story nor thirty-five (35) feet except for authorized water tanks.

### SECTION 13: APPEALS AND VARIANCES.

When it becomes inequitable to carry out the strict letter of this Ordinance, appeals to the Board of Commissioners of the Town of Lookout Mountain may be taken by any person aggrieved. The Board shall have the following duties:

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this Ordinance.

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will lead to inequitable results.

To authorize in specific cases such variance from the standards specified for the granting of conditional permits as will not be contrary to the public interest, where, owing to special circumstances, a literal enforcement of such standards will lead to inequitable results or where such literal enforcement will serve no useful purpose.

In exercising the above-mentioned powers, the Board by a majority vote may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made.

In considering all proposed variations to the Ordinance the Board shall, before making any finding in a specific case, first determine that the proposed variation will not constitute any change in the districts whose boundaries are created in Section 3 hereof, and will not impair an adequate supply of light and air to adjacent property or materially increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals and general welfare of the Town of Lookout Mountain, Tennessee.

Action of the Board of Commissioners in allowing establishment of business in the Neighborhood Commercial District other than those enumerated in Section 6 of this Ordinance, shall be considered to be allowance of variances and not rezoning or changes in the districts whose boundaries are created in Section 3 hereof; provided, however, that such additional businesses shall be restricted to the supplying of services and sales customarily found in



residential communities and shall not be extended to manufacturing or any type business involving objectionable noise, smoke, dust, odor, or excessive water use.

Before granting a variance with respect to property in the Neighborhood Commercial District or with respect to property constituting a non-conforming business or commercial use, written notice shall be given by the Board of Commissioners to all persons owning property within seven hundred fifty (750) feet of any portion of the property upon which the variance is requested, provided the correct addresses of such property owners can be readily ascertained. Such notice shall specify the time and place of the meeting to be held for consideration of the application for a variance and also the nature of the requested variance. Any such variance shall be granted only after readings at two separate meetings of the Board of Commissioners.

In its discretion the Board of Commissioners may waive any hearing prescribed herein on a variance in the Neighborhood Commercial District with respect to signs to be erected therein, and said Board of Commissioners may grant such variances, again in its discretion, without the necessity of any such notice and hearing.

#### SECTION 14: VARIANCE – AUTOMATIC REVOCATION.

In the event any variance is granted under the provisions of this Ordinance, if the use authorized by such variance is not fulfilled within one year from the date of the granting of such variance, such grant of variance shall be deemed automatically revoked. For the purposes of this section of the Ordinance, a use shall be considered as being fulfilled if there is overt evidence upon the land or structure involved that substantial continuing steps have been taken toward construction or erection of the structure in the manner authorized by the variance.

#### SECTION 15: PLANS; SEWAGE DISPOSAL.

Each application for a building permit for a new building permit or to enlarge an existing building shall be accompanied by a plat drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected or enlarged and such other information as may be necessary to provide for the enforcement of this Ordinance. A record of such application and plat shall be kept in the office of the Town Building Official.

The plat and plans submitted shall show all details of the sewage disposal system to be utilized. The owner shall also submit, upon request of the Building Official, tabulated results of approved soil percolation tests made by a licensed engineer or architect before grading of the property is commenced. If the system planned or the soil available should not be adequate to properly dispose of the sewage, the Building Official is authorized and directed to withhold any building