

Town of Walden Zoning Ordinance

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Table of Contents

Article 1. General Provisions, Rules and Definitions	2
1.01 General Purpose.....	2
1.02 Reference Title of Ordinance.....	2
1.03 Uses Restricted.	2
1.04 Amplification of Regulations.	2
1.05 Private Restrictions.....	2
1.06 Construction of Language.....	3
1.07 Specific Definitions.	3
Article 2. Establishing Zones, Boundaries and Uses of Property.....	10
2.01 Divisions into Zones.	10
2.02 The Zoning Map.....	10
2.03 Measurement of Boundaries.....	10
2.04 Adoption of Zoning Map Boundaries.....	10
2.05 Compliance with Zone Conditions.....	10
Article 3. General Provisions and Exceptions.....	11
3.01 Exceptions for All Zones.	11
3.02 Lots Used for Residential Purposes.....	11
3.03 Required Access for Residential Lots.....	11
3.04 Building on Lots Without Publicly Accepted Access.	11
3.05 Parking Requirements for All Zones.	11
3.06 Non-Conforming Uses.....	11
3.07 Distance Between Buildings.....	13
3.08 Livestock and Fowl.....	13
3.09 Home Occupation.....	13
Article 4. Zone Regulations.....	15
4.01 Agriculture Zone (A-1)	15
4.02 Estate Zone (E-1)	17
4.03 Residential Zone (R-1)	19
4.04 General Commercial Zone (C-1)	21
4.05 Village Center Zone (VC-1).....	23
4.06 Light Manufacturing Zone (LM-1)	26
4.07 Open Space Overlay Zone (OS-1)	27
Article 5. Sanitary Wastewater Discharge Requirements.....	33
5.01 Commercial Development.	33
5.02 Residential Development.	33
Article 6. Steep Slopes and Escarpment.....	34
Article 7. Administration and Enforcement.....	35
7.01 Permits Required.....	35
7.02 Fees for Permits.	35
7.03 Building Permits and Inspection.	35
7.04 Enforcement.....	35
7.05 Penalties for Violation.....	35
7.06 Remedies for Removing Violations.	35

Article 8. Special Permits	36
8.01 Applications for a Special Permit.....	36
8.02 Granting Permits.....	44
8.03 Expiration.....	45
Article 9. Board of Appeals for Variances	46
9.01 Creation and Membership of a Board of Appeals.....	46
9.02 Meetings and Rules of the Board of Appeals.....	46
9.03 Power and Duties of the Board of Appeals.....	46
9.04 Method of Appeal to the Board.....	47
9.05 Application Through Town Recorder.....	47
Article 10. Interpretation and Amendments	49
10.01 Interpretation.....	49
10.02 Initiation of Amendments.....	49
10.03 Public Hearing on Amendments.....	49
10.04 Action of the Board of Mayor and Aldermen.....	49
10.05 Fees for Administrative Costs.....	49
10.06 Procedures.....	49
10.07 Incorporation of Amendment in the Language of this Ordinance.....	49
Article 11. Validity and Severability.....	50
11.01 Conflicting Ordinances Revoked.....	50
11.02 Severability.....	50
Article 12. Hazardous Waste	51
Article 13. Effective Date	64

ORDINANCE NO. 2002-230

AN ORDINANCE REPEALING THE EXISTING WALDEN ZONING ORDINANCE, ORDINANCE NO. 7 AS AMENDED FROM TIME TO TIME, AND ADOPTING A NEW ORDINANCE FOR THE PURPOSE OF ESTABLISHING ZONES WITHIN THE INCORPORATED TERRITORY OF THE TOWN OF WALDEN, REGULATING THE USE OF PROPERTY THEREIN, ADOPTING SECTIONAL MAPS OF SAID ZONES, REQUIRING PERMITS FOR THE CONSTRUCTION AND USE OF BUILDING AND PREMISES WITHIN SAID ZONES, ESTABLISHING PERMIT PROCEDURES, ESTABLISHING A BOARD OF ZONING APPEALS AND FIXING POWERS AND DUTIES THEREOF, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AMENDMENT, AND PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WITNESSETH

WHEREAS, by the provisions of Sections 13-7-201, et. seq., Tennessee Code Annotated, the Town of Walden is authorized to establish districts or zones within its corporate limits for the purpose of regulating the use of land and buildings, the height of buildings, the size of open space surrounding buildings, and the density of population; and

WHEREAS, the Resources Utilization Board Of Chattanooga and Hamilton County, Tennessee, a Regional Planning Commission for Hamilton County, Tennessee, was appointed by the State Planning Commission of the State of Tennessee on May 3, 1943, in accordance with the provisions of Chapter 43 of the Public Acts of 1935; and

WHEREAS, said Regional Planning Commission has adopted, certified, and recommended to the Board of Mayor and Aldermen of the Town of Walden, for the adoption of a zoning plan consisting of the map and regulations described herein for the purpose described in the title of this Ordinance, as a part of the Town of Walden Plan; and,

WHEREAS, the original Walden Zoning Ordinance, Ordinance No. 7, adopted by the Town of Walden on May 22, 1976, was the Hamilton County Zoning Regulations, which has been amended at various times by the Town of Walden; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Walden has been authorized to establish zones and zoning regulations within the Town of Walden and desire to repeal the existing Walden Ordinance and adopt a new Walden Zoning Ordinance; and

WHEREAS, said Regional Planning Commission and the Board of Mayor and Aldermen of the Town of Walden find that the adoption of the within zoning map and regulations by the Town of Walden would serve to secure the public health, safety, morals, convenience, order, prosperity, and general welfare of the residents of the Town of Walden; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Walden has given due public notice of the public hearing relating to zoning districts, regulations, and restrictions, and has held such public hearing; and

WHEREAS, all requirements of State Law, with regards to the preparation of the zoning plan of the Planning Commission and subsequent actions of the Board of Mayor and Aldermen have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF WALDEN, TENNESSEE, AS FOLLOWS:

Article 1. General Provisions, Rules and Definitions

1.01 General Purpose. For the public health, safety, morals, convenience, order, prosperity, and general welfare of the citizens of the Town of Walden, and in order to secure the public interest in the orderly development of the Town of Walden by promoting sustainable, long-term economic development, adequate light and air, improved traffic safety, reduced traffic congestion, environmental protection; as well as adequate water drainage, water supply, sanitation and recreational facilities through the regulation by districts and zones of the location, height, bulk, number of stories and size of buildings and other structures, the uses of buildings, structures and land for trade, industry, residences, recreation, public activities and other purposes, and in connection therewith, there is hereby adopted and established an official Development and Zoning Plan for the Town of Walden consisting of the maps and regulations described herein. In adopting this Ordinance, the Town of Walden recognizes that its natural landscapes and development patterns play an important role in defining the attractiveness, identity, livability, and therefore, the economic health of the community. Currently, the Town enjoys a rural mountain character supported by scenic overlooks, creek gorges, woodlands, and pasturelands. The character of development is predominantly residential and small in scale.

This ordinance is also designed to enhance and implement the vision established in the Walden's Ridge Plateau Area Plan (April, 1997), as amended:

To be a community that attracts families, who can live here through the phases of life, provides for an orderly and cohesive development pattern that maintains a small town atmosphere with rural character and green spaces, and preserves pristine natural areas for the enjoyment of its residents.

This ordinance is not intended to deny property owners the reasonable, practical, or economical use of their land, but to promote development that contributes to Walden's scenic assets. Therefore, in order to provide for continued prosperity, health, and identity of the community in the future, the Town of Walden sets forth the following purposes for the ordinance:

- To maintain rural character and small scale of development;
- To protect important natural resources (creek gorges, overlooks, woodlands, steep slopes, wetlands);
- To protect and enhance property values;
- To provide a variety of living arrangements;
- To encourage harmonious and integrated development patterns that are economically feasible and are in harmony with the community with the following development priorities:
 - Outdoor gathering places;
 - Pedestrian facilities;
 - Mixed uses;
 - Landscaping;
- To discourage commercial strip development; and
- To promote high quality development that is needed and that takes into account the effect on adjacent property as well as the public health, safety, morals and general welfare of the citizens of Walden and promotes materials and design consistent with the maintenance of Walden's character as a rural and residential community. (Ord. 2005-248, 8/9/05)

1.02 Reference Title of Ordinance. This Ordinance, as the same may from time to time be hereafter amended, shall be known as the "Walden Zoning Ordinance," and may be cited as such.

1.03 Uses Restricted. Use of land, buildings, and structures not clearly permitted in the various zoning districts are prohibited.

1.04 Amplification of Regulations. No premises shall be used and no buildings or structure shall be erected, reconstructed, structurally altered, enlarged, rebuilt, moved, or used for any purpose except in conformity with all regulations herein prescribed or which shall hereafter be adopted for the zone in which such premises, building, or structure is located.

1.05 Private Restrictions. The regulations contained herein are minimum requirements and do not affect any easements, covenants, deed restrictions, or other agreements, which impose a greater

restriction than is imposed by these regulations. Where these regulations impose a greater restriction than imposed by other rules, regulations, and licenses or by easements, covenants, deed restrictions, or other private agreements, these regulations shall control.

1.06 Construction of Language. For the purpose of these regulations, the following terms, phrases, and words shall have the specific definitions as listed in 1.07. When not inconsistent with the context words used in the present tense include the future, and singular include the plural; the word “shall” is mandatory; the word “may” is permissive; the word “person” includes an individual, a corporation, a partnership (general or limited), a limited liability company, and incorporated association, or any other similar entity; the words “used for” or “use” include “arranged for,” “designed for,” “intended for,” “maintained for,” or “occupied for,” and the words “zone,” “zoning district,” and “district” shall mean the same thing. In case of any difference of meaning of implication between the text of these controls and any caption illustration, summary, table of illustration, the text shall control. The words “this ordinance,” “these regulations,” “the regulations,” “said regulations,” “the zoning regulations,” and “said zoning regulations,” shall be deemed to refer to the Walden Zoning Ordinance herein contained as the same shall from time to time be modified and amended.

1.07 Specific Definitions. The following terms shall have the meanings listed below:

- **Accessory building.** A building which is incidental and subordinate to that of the principal building and located on the same lot therewith.
- **Accessory use.** A use which is incidental and subordinate to that of the main building or use of the land.
- **Agriculture.** The cultivation of soil, and the raising and harvesting of crops, including but not limited to, nursery, gardening, horticulture, forestry, and the raising and/or caring for livestock other than poultry and pigs.
- **Alterations.** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any changes in doors, windows, means of ingress and egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.
- **Architect.** One who is registered pursuant to T.C.A. Sec. 62-2-101 to practice architecture in the State of Tennessee.
- **Assisted Living Facility.** Any building, establishment, complex which accepts persons for domiciliary care and provides room, board, and non-medical living assistance to the residents. Where prescribed medical treatment may be administered subject to the provisions of T.C.A. Sec. 68-11-201.
- **Attached.** Connected by or having in common any portion of one or more walls, floors, ceilings, or roofs.
- **Attic.** The space between the ceiling beams of the top habitable story and the roof rafter.
- **Basement.** That portion of a building having its floor subgrade below ground level on three or more sides.
- **Bed and Breakfast.** An owner-occupied Dwelling Unit advertised or held out to the public to be a place where living and/or sleeping accommodations usually including provision of at least one meal per day are supplied to transient guests for compensation. In order for a Dwelling Unit to be considered as "owner-occupied," the unit must be the owner's primary residence and must be continually occupied by the owner at the time of the bed and breakfast use. (Ord. 2009-280, 5/12/2009)
- **Broadcast Facility.** A complete assemblage of equipment for commercial radio television, or cellular or satellite transmission not including a transmitter tower.
- **Building Code.** Southern Standard Building Code.
- **Building Height.** The vertical distance measured from the average finished grade elevation across the front of the building to the highest point of the roof.
- **Building Inspector.** The Hamilton County, Tennessee, Building and Inspection Office or any person designated by the Hamilton County Building and Inspection Office or the Town of Walden.

- **Building.** Any structure which:
 - Is permanently affixed to the land;
 - Has one or more floors and a roof; and
 - Is bounded by either open area or the lot lines and intended for the shelter, housing, or enclosure of persons, animals, or materials.
- **Cemetery.** Land used for the burial of the dead or, if cremated, the cremains, and dedicated for cemetery or memorial purposes, including columbariums and mausoleums when operated in conjunction with and within the boundary of such cemetery.
- **Conservation Easement.** A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.
- **Convenience Store.** A store that provides a range of food and miscellaneous products for sale which may include the sale of gasoline.
- **Cul-de-sac.** A local street with one end open to traffic and the other end terminating in a vehicular turn-around.
- **Day Care Center.** A facility operated by any person (other than educational or recreational facility operated by the Town of Walden, Hamilton County, or the State of Tennessee) or a church that receives compensation for the care of eight (8) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody whether denominated as a child development center, nursery school, day nursery, or play school. Also, a place operated by a person, society, agency, corporation, or institution, or any group where pay is received for the care of eight (8) or more aged persons for group care for less than twenty-four (24) hours per day. This definition is not applicable to any such use operated by any governmental unit.
- **Day Care Home.** A home operated by any person who receives therein for pay not more than seven (7) children under seventeen (17) years of age, who are not related to such person and whose parents or guardians are not residents of the same home for less than twenty-four (24) hours supervision and care, without transfer of custody. Also, a home operated by any person who receives therein for pay not more than seven (7) aged persons, who are not related to such person, for less than twenty-four (24) hours supervision and care.
- **Designated Open Space.** Open space that is designated within an Open Space Overlay Zone subdivision to be placed under a Conservation Easement permanently restricting future development.
- **Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.
- **Dwelling, Single-family.** A separate detached Building containing one or more persons occupying the premises and living as a single house-keeping unit but not transient guests occupying a bed and breakfast or short-term vacation rental (both as defined herein) and specifically excluding factory manufactured homes constructed as a single, self-contained unit and mounted on a single chassis. (Ord. 2009-280, 5/12/09)
- **Dwelling Unit.** Any room or group of rooms locating within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, cooking, sleeping and eating.
- **Engineer.** One who is registered pursuant to T.C.A. Sec. 62-2-101 to practice engineering in the State of Tennessee.

- **Family.** A group of one (1) or two (2) persons or parents with their direct descendants and adopted children (and including the domestic employees thereof), together with not more than three (3) persons not so related, living together in a room or rooms comprising a single housekeeping unit. Every additional group of five (5) or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Ordinance.
- **Flood.** The temporary overflowing of water onto land that is usually devoid of surface water.
- **Fowl.** Chickens, ducks, guineas, turkeys, etc.
- **Frontage.** The width of the lot measured at (1) the required front yard setback line, or (2) in the case of a Flag Lot, the narrowest part not included in the flag pole.
- **Gasoline Service Station.** Any area of land, including structures thereon, or any building or part thereof, that is used for the sale of gasoline or other motor vehicle fuel, and which may or may not include the sale of accessories or facilities for lubricating, washing, or otherwise servicing motor vehicles, but which shall not include painting, body and fender repairs, or the storage of inoperable or wrecked vehicles.
- **Hammerhead.** An “L” or “T” type of cul-de-sac to accommodate turning of passenger vehicles, delivery trucks, school buses and emergency vehicles.
- **Home Occupation.** An occupation conducted in a dwelling unit or accessory building such as offices and studios.
- **Homeowners Association.** A formally constituted non-profit association or corporation made up of the property owners and/or residents of a development.
- **Hotel/Motel.** A building in which lodging is provided with or without meals and offered to members of the public as transient guests for compensation, and is not a Bed and Breakfast or Short-term Vacation Rental. (Ord. 2009-280, 5/12/09)
- **Inn.** A building which is not less than two (2) nor more than two and one-half (2 ½) stories in height, having ten (10) or less guest rooms in which lodging is offered to transient guests for stays of thirty (30) days or less. An Inn building may include a restaurant, outdoor service area for the service of guests and/or members of the public, and up to two (2) dwelling units for employees of the Inn or any restaurant located therein.
- **Liquor.** Means alcoholic beverages that contain more than five percent (5%) alcoholic by weight and as otherwise defined in Section 57-3-101 of the Tennessee Code Annotated. (Ord. 2004-241 1/11/05)
- **Liquor sales (sale of Liquor).** Means the retail sale of Liquor to patrons or customers, in sealed packages, and not for consumption on the premises. (Ord. 2004-241 1/11/05)
- **Livestock, Large.** Livestock 250 pounds and over.
- **Livestock, Small.** Livestock under 250 pounds.
- **Lot.** A parcel of land occupied or intended to be occupied by a principal building or building group as permitted in this Ordinance, together with its accessory buildings or uses and such access, yards and other open spaces as required in this Ordinance.
- **Lot Area.** The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street lines shall be deemed a portion of any lot area.
- **Lot, Corner.** A corner lot is a lot abutting on two (2) or more streets at their intersection, or upon a curved street provided that the two (2) sides of the lot, or the tangents to the curve of the street line as its starting points at or within the side lines of the lot, intersect to form an interior angle of not more than 135 degrees.
- **Lot Depth.** The depth of a lot for the purpose of this Ordinance, is the distance measured in the mean 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, Flag.** An interior lot located to the rear of another lot but with a narrow portion of the lot extending to the street. The narrow portion of the lot that extends to the street

shall be suitable for ingress and egress, and shall not be included in the calculation of minimum lot area. No part of the narrow portion of the lot shall be less than twenty-five (25) feet in width, except in cases when an existing structure(s) and its required side yard cannot be accommodated, then the width shall not be less than fifteen (15) feet in width. The narrow (flag pole) portion of the lot shall not be considered in determining required yard setbacks. The front yard requirements (setbacks) shall apply to all yards of a flag lot. (Ord. 2005-248, 8/9/05)

- **Lot Line.** The outside dimension of a lot as defined in these regulations, except that in the case of any lot abutting a street, the lot line for such a portion of the lot as abuts such streets shall be deemed to be the same as the street line, and shall not be the centerline of the street, or any other line within the street line even though such may be the property boundary line.
- **Lot Line, Front.** The front lot line of an interior lot is the line separating the lot from the street or easement of principal access. The front lot line of a corner lot shall be the lot line of least length abutting the street or streets, except that any street lot line may be elected to be the front lot line for the purpose of this Ordinance, provided it is so designated on the application for a building permit.
- **Lot Line, Rear.** The rear lot line is the boundary opposite and more or less parallel to the front lot line. The rear lot line of an irregular or triangular lot shall be for the purpose of this Ordinance a line not less than ten (10) feet long, lying wholly within the lot, and parallel to a farthest distance from the front lot line.
- **Lot Line, Side.** A side lot line is any boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street line is an exterior side lot line. Any other side lot line is an interior side lot line.
- **Lot of Record.** A parcel of land with dimensions shown on a document or plat file with the Hamilton County Register of Deeds prior to May 22, 1976 and which actually exists as so shown.
- **Lot Width.** The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lines and at the front yard depth required by this ordinance.
- **Manufactured Homes.** A structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air condition, and electrical systems contained therein. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For building permit purposes there shall be affixed to a factory manufactured home the appropriate State of Tennessee certification label before same shall be considered to meet standards required for issuance of a building permit. The requirement for a permanent foundation and an affixed porch shall not be enforced for manufactured homes permitted by a Temporary Permit issued by the Board of Appeals.
- **Municipal Buildings.** Any building or structure constructed, operated, or leased by the Town of Walden for the purposes of providing public services, including, but not limited to, administrative services, police or fire protection, recreation and/or educational facilities. (Ord. 2005-248, 8/9/05)
- **New Construction.** Structures for which the "Start of Construction" commenced on or after the effective date of this Ordinance.
- **Nonconforming Building or Use.** A nonconforming building or use is one that does not conform with the zoning ordinance applicable to the zone in which the same is located.
- **Office.** A room or group of rooms used for conducting the affairs of a business, profession, or government.

- **Open Air Market.** A structure where vegetables, fruits, flowers, plants, and shrubs are sold to the public.
- **Parking Space.** A space available for the parking of one (1) motor vehicle, not less than nine (9) feet wide, twenty (20) feet in length, exclusive of access or maneuvering space. Handicapped parking as required by T.C.A. shall meet the current ADA standards.
- **Premises.** A parcel or plot of land, whether occupied or unoccupied by buildings and/or structures.
- **Private Road.** A private right of way, serving as a means of vehicular and pedestrian travel, which has not been dedicated to or accepted by the Town of Walden.
- **Restaurant.** A food service establishment that meets all of the following criteria:
 - Customers are served only when seated at tables or counters;
 - No customers are served in motor vehicles;
 - Customers are not served primarily at take-out counters regardless of whether the food is intended to be consumed on or off the premises; and
 - Any food take-out service is clearly incidental to primary permitted use of serving customers seated at tables or counters.
- **Screen.** An evergreen hedge or sight-obscuring fence with a height of not less than five (5) feet above ground level.
- **Setback.** The shorter distance between any part of a building or structure and the nearest lot line or right-of-way.
- **Sign.** Any medium for visual communication, including its supportive structure and source of light, which is used or intended to be used to attract attention to a location or subject matter for advertising, instruction or informational purposes and is viewable from a public or private right-of-way.
- **School.** Any building or structure to be used principally for providing education to students grades K-12 (or any segment thereof) whether public or private but excluding day care facilities.
- **Short-term Vacation Rental.** A Dwelling Unit that is rented in part or in its entirety to transient guests for living or sleeping accommodations, whether on a daily or weekly basis. Unlike a Bed and Breakfast, a short-term vacation rental is not "owner-occupied." (Ord. 2009-280, 5/12/2009)
- **Stable.** Any structure, either private or public, where horses are kept which is intended to protect a horse from the elements.
- **Start of Construction.** Either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- **Story.** A "story" is that part of a building between any floor and the floor or ceiling next above.
- **Stream (Stream Channel).** Part of a watercourse either naturally or artificially created which contains an intermittent or perennial base flow of groundwater origin. Base flows of groundwater origin can be distinguished by any of the following physical indicators:
 - Blue line streams on USGS topographic maps;
 - Flowing water not directly related to a storm event
- **Street.** A public right-of-way, serving as a means of vehicular and pedestrian travel which has been dedicated to and accepted by the Town of Walden.

- **Street Line.** The street line is the dividing line between a street right-of-way and the adjacent lot. (Ord. 2005-248, 8/9/05)
- **Street, Unopened.** Any street or roadway which is platted of record and dedicated for public use and upon which no street or roadway has been constructed.
- **Structure.** Any form or arrangement of building materials requiring proper support, bracing, tying, anchoring, or other protection against the forces of the elements. For the purpose of these regulations, a swimming pool, a tennis court, an antenna, a tower or similar appurtenances shall be considered a structure.
- **Structural Alterations.** Any change in or addition to the supporting or structural members of a building or other structure, such as the bearing walls, partitions, columns, beams or girders, or any change which could convert an existing building or other structure into a different structure or adapt it to a different use, or which in the case of a nonconforming building or other structure would prolong the life of such building or other structure.
- **Studio.** The workshop of an artist, sculptor, photographer, or craftsperson.
- **Townhouse.** A single-family dwelling unit attached by fireproof common walls to other similar type units, each unit having an open space for light, air, and access in the front and rear. Each unit shall have a separate entrance. There shall be not less than four (4) or more than twelve (12) units connected together. Each unit is to be placed on a single and separate lot.
- **Trailer.** Any vehicle either having or not having motor power of its own, which has been or may be propelled, carried or drawn, whether resting on wheels, jacks or other foundation and which is, or is not, arranged, intended, designed, or used for human habitation, for recreational purposes, or as a place in which a person or persons may eat, sleep, or congregate. A trailer shall include that type of vehicle known as a motor home, boat trailer, utility trailer, camping trailer, or recreational vehicle.
- **Transient.** Any person who, occupies or is entitled to occupy any rooms, lodging or other accommodations for a period of thirty (30) days or less. (Ord. 2009-280, 5/12/09)
- **Truck Garden.** A garden in which vegetables are grown for sale off-premise.
- **Use.**
 - Any purpose for which a building or other structure, or a tract of land may be designed, arranged, intended, maintained, or occupied; or
 - Any activity, occupation, business, or operation carried on, in a building or other structure or on a tract or land;
- **Utilities.** The term utilities shall mean, as applicable in any context, water, gas, electric, telephone, cable television, and any other similar utility service which is to be provided to the user thereof through the use of a pipe, wire, and/or cable.
- **Variance.** A grant of relief to a person from the requirements of this Ordinance which permits construction or use in a manner otherwise prohibited by these regulations where specific enforcement would result in unnecessary hardship.
- **Warehouse (mini or self-storage).** A building or group of buildings in a controlled access and fenced compound that contains various sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.
- **Watercourse.** Any streams, brooks, lakes, ponds, swamps, marshes, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town of Walden.
- **Wetland.** An area that is periodically inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions does support a prevalence of vegetation typically adapted for life in saturate soil conditions. It is intended, as used in this Ordinance, the term wetland shall have the

same meaning as that given by the U.S. Army Corps of Engineers in 33 C.F.R. 328 Definition of Waters of the United States.

- **Yard.** An open space, not occupied by a vertical structure or structures, on the same lot with a building or other structure or use, open and unobstructed from the ground to the sky except by vegetation.
- **Yard, Front.** A yard extending the full width of the lot along the front line and extending in-depth from the front line to the nearest point of any structure on the lot, the minimum distance being specified by this Ordinance.
- **Yard, Rear.** An open space extending the full width of the lot and of a uniform depth measured horizontally at right angles to the rear lot line.
- **Yard, Side.** An open space extending along the side of the lot, between the front yard and the rear yard and of a uniform width measured horizontally at right angles to the side lot line.

Article 2. Establishing Zones and Boundaries and Limiting the Uses of Property Therein

2.01 Divisions into Zones. In order to regulate, restrict, and segregate the use of land, buildings, and structures, and to regulate and restrict the height and bulk of buildings and the area of yards and other open spaces about buildings and to regulate and restrict the density of population, the incorporated territory of the Town of Walden, Tennessee is hereby divided into zones known as:

A-1	Agriculture Zone
E-1	Estate Zone
R-1	Residential Zone
C-1	Commercial Zone
VC-1	Village Center Zone
LM-1	Light Manufacturing Zone
OS-1	Open Space Overlay Zone

2.02 The Zoning Map. The boundaries of said zones are hereby fixed and established as shown upon the zoning map, consisting of a series of maps drawn to a scale of 1" = 400' which are identified by sheet numbers in the lower right hand margin and approved by the Board of Mayor and Aldermen and authenticated by the signature of the Walden Mayor and the Secretary of the Chattanooga-Hamilton County Regional Planning Commission. Each of these maps, supplemental sheets, and index map are hereby adopted and made a part of this Ordinance, and said maps and all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were fully described therein.

2.03 Measurement of Boundaries. The boundaries of the various zones as shown on the said map shall be determined by the use of the scale shown on said map, unless the actual dimensions are noted. Scale and filed measurements and map dimensions shall be figured from the centerline of streets and alleys. Where zoning boundaries lie on or within streets, roads, and alleys, the zoning boundaries shall be the centerlines of streets, alleys, railroad right-of-way, or such lines extended.

2.04 Adoption of Zoning Map Boundaries. The boundaries of such zones as shown on said map are hereby adopted and approved, and the regulations of this Ordinance are hereby established and declared to be in effect upon all land (including water area) included within the boundaries of each and every zone shown upon said map.

2.05 Compliance with Zone Conditions. Except as hereinafter provided, no building shall be erected or altered, nor shall any building or premises be used for any purpose other than is permitted in the zone in which such buildings or premises is located, nor shall any building be erected or structurally altered except in conformity with the height, area, and regulations herein established for the zone in which such building is located.

Article 3. General Provisions and Exceptions

3.01 Exceptions to the Foregoing Regulations for All Zones.

- (a) **Height Exceptions.** Subject to other restrictions set forth herein, communication towers, steeples, water tanks, silos, and similar structures, and necessary mechanical appurtenances to such structures may be built and used as established for the zone in which such structures are located.
- (b) **Side Yards on Corner Lots.** On corner lots, fences and walls no more than six (6) feet high may be erected; but no fence, wall, or shrubbery shall be maintained within twenty-five (25) feet of any street intersection.
- (c) **Lot of Record.** Any lot of record, meeting the requirements set forth herein, with accepted access as defined in 3.04, may be used as a building site for a single-family dwelling.
- (d) **Subdivision of Lots.** No lot shall be reduced in size or area below the minimum requirements set forth herein. Any subdivision (i.e. any change to the size of a lot whether by (i) modifying the boundary line of the lot, or (ii) deleting interior lot lines shall be considered a subdivision) of a lot with dimensions shown on a document or plat filed with the Hamilton County Register of Deeds prior to March 14, 1995 shall meet at least the minimum requirements established by this Ordinance, except that lot(s) may be created that do not meet the minimum size requirements established by this Ordinance when they are the result of the resubdivision of lot(s) of record and the newly created lot(s) are as large or larger than the previous lot(s). (Ord. 2005-248, 8/9/05)

3.02 Lots Used for Residential Purposes. Any lot used for residential purposes shall be restricted to one (1) principal structure and its accessory structure(s).

3.03 Required Access for Residential Lots. All residential lots in the Town of Walden must have frontage on an existing town accepted and publicly maintained street or road. Lots whose only access is a private road or easement are not permitted unless a Special Permit is granted by the Board of Mayor and Aldermen.

3.04 No Permit for Building on Lots Without Publicly Accepted Access. No permit shall be issued for a building or use on a lot which does not abut on an existing town accepted and publicly maintained street or road unless a Special Permit for access to such lot by a private road or easement has been granted by the Board of Mayor and Aldermen.

3.05 Parking Requirements for All Zones. It is the intent of this Ordinance to minimize, to the extent practical, the size of parking areas so as to reduce storm water run-off and eliminate the usual blight associated with large parking lots. Off-street parking with proper drainage shall be provided on the same lot as the structure it serves according to the following criteria:

- (a) There shall be two (2) spaces for every dwelling unit.
- (b) There shall be one (1) space for every three (3) seats in the main auditorium of churches and other public meeting structures;
- (c) For Bed and Breakfasts and Inns there shall be one (1) parking space for every guest unit plus one (1) parking space for every innkeeper's dwelling;
- (d) For any other permitted use, there shall be four (4) parking spaces for every 1000 square feet of net leasable floor area or such lesser number of spaces as shall provide reasonable parking for the use of the building per approval of the Board of Mayor and Aldermen.

3.06 Non-Conforming Uses.

- (a) The lawful use of a building existing at the time of the passage of the Walden Zoning Ordinance or any amendment thereto shall not be affected by the Ordinance, although

Article 3. General Provisions and Exceptions

such use does not conform to the provisions of the Ordinance and such use may be extended throughout any such building, provided that no structural alterations, except those required by law or other town ordinance, or ordered by an authorized officer to secure the safety of the building, are made therein, but no such use shall be extended to occupy any land outside such buildings.

If such non-conforming building is removed or the non-conforming use of such building is discontinued for 100 consecutive days regardless of the intent of the owner or occupant of such building to continue or discontinue such use, every future use of such premises shall be in conformity with the provisions of the Ordinance. Evidence of nonuse shall include, but not be limited to, the disconnection of electrical service to said building for a period of 100 days or longer. (Ord. 2005-248, 8/9/05)

Manufactured homes, existing on lots where manufactured homes are not a permitted use, shall be treated as non-conforming uses as specified in this section.

Nothing in this section shall prevent the replacement in the same location of a manufactured home that is a legal non-conforming use in a residential zone with another manufactured home, provided that a new building permit shall be issued for such manufactured home, specifying that the manufactured home meets all of the current regulations concerning plumbing, electrical and other codes applicable to such units.

- (b) The lawful use of land existing at the time of the passage of this Ordinance, although such use does not conform to the provisions of this Ordinance, shall not be affected by the 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 100 consecutive days regardless of the intent of the owner or occupant of such premises to continue or discontinue such non-conforming use, any future use of such land shall be in conformity with the provisions of this Ordinance.

- (c) A non-conforming use may be changed to a use of the same classification according to the provisions of this Ordinance. When a zone shall hereafter be changed, any then existing non-conforming use in such changed zone may be continued or changed to a use of a similar classification; provided all other regulations governing the new use are complied with. Whenever a non-conforming use of a building has been discontinued or changed to a conforming use, such use shall not hereafter be changed to a non-conforming use.
- (d) Nothing in this Ordinance shall be taken to prevent the restoration within one (1) year of a building destroyed to any extent by fire, explosion or other casualty, nor the continued occupancy of such building. In the event that additional time is necessary to complete restoration of a building destroyed by fire, explosion, or other casualty, an applicant may apply to the Board of Mayor and Aldermen for an extension of time within which to reconstruct a building or structure. The Board of Mayor and Aldermen may approve any necessary extension of time by resolution lawfully passed.
- (e) In addition, a lot that had a single use consisting of a legal non-conforming manufactured home in a residential zone, that was destroyed by any of the above may, prior to the expiration of 100 consecutive days, have another manufactured home placed on the lot, provided that a new building permit shall be issued for the new manufactured home, specifying that the manufactured home meets all the current regulations concerning building, plumbing, electrical and other codes applicable to said unit.

Article 3. General Provisions and Exceptions

- (f) Any non-conforming industrial, commercial, or other business establishment in operation shall be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business and so as to avoid nuisances to adjoining landowners.

No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business so as to avoid nuisances to adjoining landowners.

Industrial, commercial, or other business establishments in operation and permitted to operate as non-conforming uses shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect.

No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business so as to avoid nuisances to adjoining landowners.

3.07 Distance between buildings. Where more than one (1) permanent building is located on one (1) parcel, the buildings shall be at least twenty (20) feet apart.

3.08 Livestock and Fowl. It shall be unlawful for any person to own, keep or maintain more than one (1) large livestock per acre or more than two (2) small livestock per acre.

It shall be unlawful for any person to own, keep or maintain more than 100 livestock or fowl in the Town of Walden.

3.09 Home occupation. An occupation conducted in a dwelling unit or accessory building such as offices and studios, provided that;

- (a) No such persons other than those residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;
- (d) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, nor shall any equipment or process be used which creates visual or audible interference in any radio or television received off the premises. In the case of a two (2) family dwelling or multiple family dwelling, no use shall be permitted which affects another unit in the same building in the above mentioned ways;
- (e) There is no outside storage or display of merchandise;

Article 3. General Provisions and Exceptions

- (f) There is no outside storage or use of equipment or machinery relative to the use;
- (g) Such home occupation does not include the retailing of stock in trade nor the sale or rental of any goods not produced within the premises; and
- (h) No traffic shall be generated by such home occupation in greater volumes than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and in a location other than in the required front yard.

Article 4. Zone Regulations

4.01 Agriculture Zone (A-1)

- (a) **Purpose of the A-1 Agriculture Zone.** Agriculture Zone is a district promoting the opportunity for agriculture and related uses within the Town of Walden.
- (b) **Permitted Uses.**
- (1) Livestock and fowl;
 - (2) Single family Dwelling; (Ordinance #2009-280, 5/12/09)
 - (3) Churches;
 - (4) Barns;
 - (5) Home occupations;
 - (6) Municipal buildings, structures and parks;
 - (7) Schools, libraries, and museums and;
 - (8) Athletic fields, tennis and country clubs, with golf courses (excluding miniature golf and "Par 3" courses), parks, playgrounds, community swimming pools and recreational areas operated by membership organizations for the benefit of their members.
- (Ord. 2005-248, 8/9/05)
- (c) **Accessory Uses Permitted.** Buildings, structures, and uses customarily incidental to any of the above uses when located on the same lot or tract.
- (d) **Special Uses Permitted.** Subject to the issuance of a Special Use Permit by the Board of Mayor and Aldermen:
- (1) Day care centers;
 - (2) Bakeries (with fewer than five (5) persons engaged in the operation and conduct of said business);
 - (3) Public utilities;
 - (4) Cemeteries;
 - (5) Assisted living facilities provided that the facility shall contain no more than eight (8) residents. Such facility may include two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to the persons residing in the house;
 - (6) Manufactured homes constructed as a single, self-contained unit and mounted on a single chassis;
 - (7) Bed and breakfast; and
 - (8) Commercial radio, television, telephone and microwave towers.
 - (9) Agriculture, nurseries, greenhouses and truck gardens;
 - (10) Farm stand, a stand for the sale of products grown or produced on the premise provided:
 - a) That the stand does not exceed two hundred (200) square feet in area;
 - b) That any such stand shall not be closer than twenty-five (25) feet to any street or road right-of-way line;
 - c) Adequate customer parking will be provided off of the right-of-way;
 - (11) Stables and kennels
- (Ord. 2005-248, 8/9/05)
- (e) **Area Regulations.**

Article 4. Zone Regulations, A-1 Agriculture Zone

- (1) **Minimum Yard Requirements.**
 - a) Front Yard: Fifty (50) feet.
 - b) Side Yard: For single-story dwellings and accessory structures, side yards shall be not less than twenty-five (25) feet and four (4) feet shall be provided on each side yard for each additional story or part thereof.
For the building of churches, schools or other permitted uses and their accessory structures, other than dwellings, there shall be a side yard of not less than thirty-five (35) feet.
 - c) Rear Yard: There shall be a rear yard for a main building of not less than thirty-five (35) feet.
Unattached buildings of accessory use shall not be located closer to a rear lot than fifteen (15) feet.
- (2) **Minimum Lot Area.**
 - a) The minimum lot area shall be twenty (20) acres.
 - b) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.
- (3) **Minimum Lot Depth and Frontage.** The minimum frontage of any lot shall be one hundred and fifty (150) feet with a minimum depth of two hundred (200) feet.
- (f) **Height Regulations.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
- (g) **Sanitary Wastewater Discharge Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.02 Estate Zone (E-1)

- (a) **Purpose of E-1 Estate Zone.** The Estate Zone district accommodates low-density development while providing for agricultural uses.
- (b) **Permitted Uses.**
 - (1) Single family Dwelling; (Ordinance #2009-280, 5/12/09)
 - (2) Churches;
 - (3) Barns;
 - (4) Home occupations;
 - (5) Day care homes;
 - (6) Municipal buildings, structures and parks;
 - (7) Schools, libraries, and museums;
 - (8) Agriculture, nurseries, greenhouses, and truck gardens;
 - (9) Farm stand, a stand for the sale of products grown or produced on the premise provided:
 - a) That the stand does not exceed two hundred (200) square feet in area;
 - b) That any such stand shall not be closer than twenty-five (25) feet to any street or road right-of-way line;
 - c) All necessary parking accommodated on premises; and
 - (10) Athletic fields, tennis and country clubs, with golf courses (excluding miniature golf and "Par 3" courses), playgrounds, community swimming pools and recreational areas operated by membership organizations for the benefit of their members.

(Ord. 2005-248, 8/9/05)
- (c) **Accessory Uses Permitted.** Buildings, structures, and uses customarily incidental to any of the above uses when located on the same lot or tract.
- (d) **Special Uses Permitted.** Subject to the issuance of a Special Use Permit by the Board of Mayor and Aldermen:
 - (1) Day care centers;
 - (2) Bakeries (with fewer than five (5) persons engaged in the operation and conduct of the business);
 - (3) Public utilities;
 - (4) Cemeteries;
 - (5) Assisted living facilities provided that the facility shall contain no more than eight (8) residents. Such facility may include two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to the persons residing in the house; and
 - (6) Bed and Breakfasts.
 - (7) Stables, raising and maintaining of livestock or fowl for non-commercial use. It shall be unlawful for any person to own, keep or maintain any livestock or fowl on land that does not satisfy the applicable provisions of Article 3 of this Ordinance. (Ord. 2005-248, 8/9/05)
- (e) **Area Regulations.**
 - (1) **Minimum Yard Requirements.**
 - a) Front Yard: Fifty (50) feet.
 - b) Side Yard: For single-story dwellings and accessory structures, side yards shall be not less than twenty-five (25) feet and four (4) feet shall be provided on each side yard for each additional story or part thereof.

Article 4. Zone Regulations, E-1 Estate Zone

For the building of churches, schools or other permitted uses and their accessory structures, other than dwellings, there shall be a side yard of not less than thirty-five (35) feet.

- c) **Rear Yard:** There shall be a rear yard for a main building of not less than thirty-five (35) feet.

Unattached buildings of accessory use shall not be located closer to a rear lot than fifteen (15) feet.

(2) **Minimum Lot Area.**

- a) The minimum lot area shall be five (5) acres.
- b) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(3) **Minimum Lot Depth and Frontage.** The minimum frontage of any lot shall be one hundred and fifty (150) feet with a minimum depth of two hundred (200) feet.

- (f) **Height Regulations.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

- (g) **Sanitary Wastewater Discharge Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.03 Residential Zone (R-1)

- (a) **Purpose of Residential Zone.** The Residential Zone (R-1) district encourages low-density residential development.
- (b) **Permitted Uses.**
 - (1) Single family Dwelling; (Ord. 2009-280, 5/12/09)
 - (2) Home occupations;
 - (3) Day care homes;
 - (4) Churches;
 - (5) Municipal parks; and
 - (6) Schools.
- (c) **Accessory Uses Permitted.** Accessory buildings, structures, and uses customarily incidental to permitted uses when located on the same lot or tract.
- (d) **Special Uses Permitted.** Subject to the issuance of a Special Use Permit by the Board of Mayor and Aldermen:
 - (1) Public utilities;
 - (2) Day care centers;
 - (3) Townhouses;
 - (4) Assisted living facilities provided that the facility shall contain no more than eight (8) residents. Such facility may include two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to the persons residing in the house.;
 - (5) Cemeteries; and
 - (6) Bed and Breakfasts.
- (e) **Area Regulations.**
 - (1) **Minimum Yard Requirements.**
 - a) Front Yard: Twenty-five (25) feet.
 - b) Side Yard: For single-story dwellings and accessory structures, side yards shall be not less than twenty-five (25) feet and four (4) feet shall be provided on each side yard for each additional story or part thereof.
For the building of churches, schools or other permitted uses and their accessory structures, other than dwellings, there shall be a side yard of not less than thirty-five (35) feet.
 - c) Rear Yard: There shall be a rear yard for a main building of not less than twenty-five (25) feet.
Unattached buildings of accessory use shall not be located closer to a rear lot than ten (10) feet.
 - (2) **Minimum Lot Area.**
 - a) The minimum lot area shall be two (2) acres.
 - b) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.
 - (3) **Minimum Lot Depth and Frontage.** The minimum frontage of any lot shall be seventy-five (75) feet with a minimum depth of one hundred (100) feet.
 - (4) **Height Regulations.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
 - (5) **Sanitary Wastewater Discharge Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.04 General Commercial Zone (C-1)

(a) **Purpose of General Commercial Zone (C-1).** This district is established to provide guidelines for existing or future commercial properties and service uses, which may be orientated to the automobile or pedestrian trade. This district is designed to accommodate such commercial uses as permitted in a manner that will minimize interference with through traffic movements.

(b) **Principle Uses Permitted.**

- (1) Art galleries and studios;
- (2) Audio recording shops;
- (3) Automobile service stations;
- (4) Bakeries;
- (5) Commercial banks and savings banks;
- (6) Beauty shops and barber shops;
- (7) Book stores;
- (8) Restaurants and cafes;
- (9) Churches;
- (10) Clothing shops;
- (11) Craft shops;
- (12) Decorator shops;
- (13) Dry cleaning shops;
- (14) Fabric stores;
- (15) Florist shops;
- (16) Gasoline filling stations;
- (17) Convenience stores;
- (18) Gift shops;
- (19) Hardware stores;
- (20) Home occupations;
- (21) Horticultural nurseries and greenhouses;
- (22) Jewelry stores;
- (23) Lawn and garden shops;
- (24) Municipal buildings, structures and parks;
- (25) Musical instrument shops;
- (26) Office/school supply and stationary shops;
- (27) Offices;
- (28) Paint and wallpaper shops;
- (29) Parks;
- (30) Pharmacies;
- (31) Photocopying, postage, packaging, and telecopy services;
- (32) Printing;
- (33) Schools;
- (34) Shoe stores;
- (35) Single-family Dwellings; (Ord. #2009-280, 5/12/09)
- (36) Theaters;
- (37) Toy stores;
- (38) Travel agencies;

Article 4. Zone Regulations, C-1 General Commercial Zone

- (39) Video rental stores;
 - (40) Furniture shops;
 - (41) Produce stands;
 - (42) Bed and Breakfasts;
 - (43) Day care centers;
 - (44) Grocery stores; and
 - (45) Townhouses.
- (c) **Special Uses Permitted.** Subject to the issuance of a Special Use Permit by the Board of Mayor and Aldermen:
- (1) Plumbing and electrical shops, radio and TV shops, appliance repair shops, and similar workshop type uses provided that not more than three (3) repair persons are employed within;
 - (2) Cemeteries;
 - (3) Public utilities;
 - (4) Assisted living facilities;
 - (5) Commercial radio, television, telephone, and microwave towers; and
 - (6) Liquor Stores (Ord. 2004-241 1/11/05)
 - (7) In general, all stores, shops, or services similar in character, type and effect to the above unless otherwise controlled or provided by law. (Ord. 2005-248, 8/9/05)
 - (8) Hotel/Motel; and (Ord. 2009-280, 5/12/09)
 - (9) Short-term Vacation Rentals. (Ord. 2009-280, 5/12/09)
 - (10) Buildings or Structures with a footprint greater than 5,000 square feet (Ord. 2017-318, 7/11/17)
- (d) **Area Regulations.**
- (1) **Height.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
 - (2) **Width to Depth Ratio.** For any proposed footprint, the smaller building façade shall front the street.
 - (3) **Minimum Yard Requirements.**
 - a) Front Yard: Twenty-five (25) feet.
 - b) Side Yard: Twenty-five (25) feet unless it abuts an A-1 Zone, R-1 Zone or E-1 Zone in which case it shall be forty (40) feet.
 - c) Rear Yard. Twenty-five (25) feet unless it abuts an A-1 Zone, R-1 Zone or E-1 Zone in which case it shall be forty (40) feet.
 - (4) **Building Size.** No building or structure constructed within the C-1 General Commercial one shall have a footprint of greater than 5,000 square feet. For buildings or structure footprints with a proposed footprint greater than 5,000 square feet see Special Uses Permitted. (Ord.2017-318, 7/11/17).
 - (5) **Curb-Cuts.** No lot access shall be permitted to Taft Highway (U.S. 127) if public access to such lot exists by another street or right-of-way, either opened or unopened. Such unopened access shall be paved to Town of Walden standards and dedicated to the Town of Walden. The use of shared points of ingress and egress is encouraged. (Ord. 2005-248, 8/9/05)
- (e) **Sanitary Wastewater Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.05 Village Center Zone (VC-1)

- (a) **Purpose of Village Center Zone (VC-1).** The Village Center Zone is intended to blend commercial and residential areas into a pedestrian-friendly atmosphere where the proximity of residential housing to commercial enterprise does not detract from the quality of life of the residents. The Village Center should provide a local retail, service and civic center for the community.
- (b) **Principal Uses Permitted.**
 - (1) Appliance and retail electronic stores;
 - (2) Art galleries and studios;
 - (3) Audio recording shops;
 - (4) Bakeries (with fewer than five (5) persons engaged in the operation and conduct of said business);
 - (5) Commercial banks and savings banks;
 - (6) Beauty shops;
 - (7) Bed and Breakfasts
 - (8) Book stores;
 - (9) Churches;
 - (10) Clothing shops;
 - (11) Inns;
 - (12) Craft shops;
 - (13) Decorator shops;
 - (14) Dry cleaning shops, no processing;
 - (15) Fabric stores;
 - (16) Florist shops and plant nurseries;
 - (17) Furniture shops;
 - (18) Gasoline service stations;
 - (19) Gift shops;
 - (20) Hardware stores;
 - (21) Home occupations;
 - (22) Horticultural nurseries;
 - (23) Jewelry stores;
 - (24) Lawn and garden shops;
 - (25) Municipal buildings;
 - (26) Musical instrument shops;
 - (27) Non-vehicular repair shops;
 - (28) Office/school supply and stationary shops;
 - (29) Offices;
 - (30) Open air markets;
 - (31) Paint and wallpaper shops;
 - (32) Pharmacies;
 - (33) Photocopying, postage, packaging and telecopy services;
 - (34) Restaurants;
 - (35) Schools;
 - (36) Securities brokerage services;
 - (37) Shoe stores;

Article 4. Zone Regulations, VC-1 Village Center Zone

- (38) Single family Dwelling; (Ord. 2009-280, 5/12/09)
 - (39) Town houses;
 - (40) Toy stores;
 - (41) Travel agencies;
 - (42) Video rental stores;
 - (43) Grocery stores;
 - (44) Libraries and museums
 - (45) Parks; and
 - (46) Dwelling units or loft apartments for use as a single family dwellings located above the first floor of any non-residential building permitted to be constructed in the VC-1 Zone.
- (c) **Accessory Uses Permitted.** Accessory buildings, structures, and uses customarily incident to single family dwellings when located on the same lot or tract.
- (d) **Special Uses Permitted.** Subject to the issuance of a Special Use Permit by the Board of Mayor and Aldermen:
- (1) Cemeteries;
 - (2) Public utilities;
 - (3) Day care centers;
 - (4) Liquor stores; and
 - (5) Accessory buildings, structures, and uses customarily incident to a permitted business use when located on the same lot or tract.
- (e) **Development Regulations.** Certain requirements set forth in this section may be waived by the Board of Mayor and Aldermen, so long as the plan approved conforms with the guidelines and intent of this section.
- (1) **Development Size.** This new zone will apply only to future development taking place after the passage of this ordinance and will be limited to projects of no less than fifteen (15) acres.
 - (2) **Development Layout.** Small, four (4) sided blocks, rectangular, or irregular shaped with no side exceeding 400 feet in length. Each side of the block will face a street. Project plans are required and shall be reviewed by the Regional Planning Agency and Board of Mayor and Aldermen.
 - (3) **Off-Street Parking.** The parking area will be in the center of the block with access limited to three (3) of the four (4) sides. No garage or parking area shall be entered from the front.
 - (4) **Streets.** Streets must be designed for on street parking and must be limited to two (2) twelve (12) foot lanes. On street parking may have a limited parking time and may be controlled by parking meters.
 - (5) **Residential Area.** No block may have more than twenty (20) percent residential lot area at street level.
 - (6) **Sidewalks.** Each block must have eight (8) foot sidewalks on all four sides.
- (f) **Area Regulations.**
- (1) **Lot Area.**
 - a) The lot area shall be minimum of 2,500 square feet and a maximum of 25,000 square feet.
 - b) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.
 - (2) **Lot Width at Front Yard Setback Line.** A minimum of twenty-five (25) feet and a maximum of eighty (80) feet.

Article 4. Zone Regulations, VC-1 Village Center Zone

- (3) **Minimum Lot Depth.** 100 feet.
- (4) **Yard Dimensions.**
 - a) **Front Yard.** Zero (0) to fifteen (15) feet.
 - b) **Side Yard (each side).** A minimum of zero (0) feet if attached to an adjacent building, or a minimum of five (5) feet if not attached to an adjacent building; maximum of twenty (20) feet.
 - c) **Rear Yard.** A minimum of fifty-five (55) feet sufficient to provide one row of parking for commercial uses.
- (5) **Height.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
- (g) **Sanitary Wastewater Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.06 Light Manufacturing Zone (LM-1)

- (a) **Purpose of Light Manufacturing Zone (LM-1)** This zone is established to allow for light manufacturing that employs twenty (20) people or less.
- (b) **Principal Uses Permitted.**
 - (1) Bakeries;
 - (2) Printing; and
 - (3) Offices.
- (c) **Special Uses Permitted.** Subject to the issuance of a Special Permit by the Board of Mayor and Aldermen:
 - (1) Accessory buildings commensurate with approved building subject to all applicable regulations and restrictions of this and other adopted ordinances; and
 - (2) Public utilities;
 - (3) Adult-oriented establishments; and
 - (4) Warehouses (mini or self-storage).
- (d) **Area Regulations.**
 - (1) **Height.** No building or structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
 - (2) **Minimum Yard Requirements.**
 - a) Front Yard: Fifty (50) feet.
 - b) Side Yard: Twenty-five (25) feet unless it abuts an R-1 Zone or E-1 Zone in which case it shall be forty (40) feet.
 - c) Rear Yard: Twenty-five (25) feet unless it abuts an R-1 Zone or E-1 Zone in which case it shall be forty (40) feet.
 - (3) **Curb-Cuts.** No lot access shall be permitted to Taft Highway (U.S. 127) if public access to such lot exists by another street or right-of-way, either opened or unopened. Such unopened access shall be paved to Town of Walden standards and dedicated to the Town of Walden.
 - (4) **Sanitary Wastewater Requirements.** All buildings or other structures, the use of which may generate wastewater that may contain human or animal wastes, shall comply with applicable requirements of Article 5.

4.07 Open Space Overlay Zone (OS-1)

(a) **Purpose and Intent of Open Space Overlay Zone.**

- (1) **Intent.** The Open Space Overlay Zone (OS-1) is intended to provide a voluntary residential development option with A-1 and E-1 Zones that protects open space and natural resources, and retains the predominantly rural character of the Town of Walden.
- (2) **Purpose.** The purposes of the Open Space Overlay Zone are:
 - a) To allow development that permanently preserves the open space, pasturelands, woodlands, wetlands, critical views, creeks, and other natural features within the Town of Walden;
 - b) To connect open space, trails, and recreation sites within the Zone and to integrate the open space and recreation system of the Town of Walden;
 - c) To allow flexibility in the placement and type of dwelling units within the subdivision;
 - d) To promote the integration of woodlands, pasturelands, and creeks, into the overall development framework;
 - e) To promote the use of shared septic, drinking water and stormwater systems that prevent the degradation of water quality;
 - f) To reduce the amount of new roads and to allow flexibility in road specifications for roads serving residences in the Zone; and
 - g) To reduce the amount of impervious surfaces in subdivisions, including driveways.

(b) **Development Standards for Open Space Design/Conservation Subdivision.**

- (1) **Minimum Size of Subdivision.** The minimum size of a conservation subdivision in the OS-1 Zone is twenty (20) acres.
- (2) **Open Space Requirement.**
 - a) A minimum of fifty (50) percent of the total tract area shall be designated as open space.
 - b) There are two (2) types of open space: Primary Conservation Areas and Secondary Conservation Areas.
 - 1) Primary Conservation Areas:
 - a. are lands identified in the Resource Inventory and subdivision application as being unbuildable, including all wetlands, 100-year floodplains, steep slopes of twenty-five (25) percent or greater, and streamside zones; and
 - b. that must be set aside as open space under permanent conservation easement for all OS-1 subdivision.
 - 2) Secondary Conservation Areas:
 - a. typically include mature woodlands, aquifer recharge areas, areas with permeable (“excessively drained”) soil, significant wildlife habitat areas, sites listed as Historic Landmarks by the State of Tennessee, prime farmland, and scenic views into the property from existing public roads; and
 - b. that may be set aside as open space.
 - c) Designated open space shall be placed in undivided preserves, which may adjoin housing areas that have been designed more compactly to

Article 4. Zone Regulations, OS-1 Open Space Overlay Zone

- create larger areas that may be enjoyed equally by all residents of the development.
- d) Where possible, designated open space shall be contiguous with open space uses on adjacent developments in order to provide large expanses of open space.
 - e) Access shall be directly accessible to the largest practicable number of lots within the open space development. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access.
 - f) Where the undivided open space is designated as separated, non-contiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length to width ration in excess of 4:1, except such areas that are specifically designed as village greens, ball fields, upland buffers to wetlands, water bodies, or watercourses; or designed as trail links.
- (3) **Open Space Ownership and Management.** All lands and improvements in designated open space shall be established, managed and maintained in accordance with the following guidelines:
- 1) Designated open space must be restricted from further development by a permanent conservation easement running with the land. The permanent conservation easement must be submitted with the preliminary site plan and approved by the Town of Walden and duly recorded in the Hamilton County Register's Office in accordance with Tennessee's "Conservation Act of 1981" (Tenn. Code Ann. 66-9-301 et seq.). The permanent conservation easement must specify:
 - a. What entity will maintain the designated open space;
 - b. Purposes of the conservation easement and the conservation values of the property;
 - c. Legal description of the land under the easement;
 - d. Restrictions on the use of the land;
 - e. Restriction from future development of the land;
 - f. Standards by which the open space will be maintained; and
 - g. Right of accessibility to the Town's residents for passive recreation to the limit that it effects adjoining property owners.
 - b) Ownership of the underlying fee of each designated open space parcel, subject to the terms of the permanent conservation easement, may be held by any group or individual who will use the land in accordance with the permanent conservation easement.
 - c) The owner of the underlying fee shall be responsible for the payment of taxes and assessments on any designated open space parcel.
- (4) **Utilities.** Individual well and septic systems are allowed in conservation subdivisions; however, common utilities (shared water and/or sewer or septic systems) are encouraged. Common utilities shall meet Department of Environment and Conservation, Division of Ground Water Protection standards for subsurface sewage disposal systems and must meet design and installation requirements of the Hamilton County Health Department. Each lot must be approved by the Hamilton County Health Department for adequate waste treatment before the Town of Walden may approve the final plat.

Article 4. Zone Regulations, OS-1 Open Space Overlay Zone

- a) Communally operated waste treatment systems consist of all waste treatment improvements that do not operate within the confines of a single parcel. For example, a development that provided septic tanks for each individual lot but uses a shared drainage overflow field located outside of the individual lot where the septic tank is located is considered as a communally operated waste treatment system.
 - b) All waste treatment systems are subject to the review and approval of the State of Tennessee and/or the Hamilton County Public Health Department.
 - c) Communal drainfields for shared septic systems may be partially or completely located in designated Secondary Conservation Areas, provided that:
 - 1) The dedicated open space parcel containing the communal drainfield is owned in fee by a common ownership association and membership in the association by all property owners using the drainfield shall be mandatory;
 - 2) The common ownership association is responsible for maintenance and repair of the communal drainfield;
 - 3) Recreational uses are prohibited above or within fifty (50) feet of communal drainfields;
 - 4) The conservation easement for the dedicated open space parcel describes the location of the communal drainfield; and
 - 5) The communal drainfield does not occupy more than fifty (50) percent of the open space.
- (5) **Lot and Building Site Design.** Lots and building sites shall meet the following objectives and the Board of Mayor and Aldermen shall consider the following in making a determination as to whether to approve or deny an application for an Open Space Overlay Zone: (Ord. 2005-248, 8/9/05)
- a) Locate individual and communal septic systems on the most suitable soils for sub-surface septic disposal.
 - b) Locate building sites to minimize the impact on forest land and to maximize the continuity of forest lands. Woodlands of any size on highly erodeable soils with slopes greater than ten (10) percent should be avoided wherever possible.
 - c) The location of house lots and driveways within wooded areas is generally recommended, except in situations where the preservation of significant wildlife habitat or mature woodlands raises an equal or greater preservation concern. Great care should be taken in woodland development to design all disturbed areas in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
 - d) Locate building sites in areas least likely to block or interrupt scenic vistas as viewed from roads. In wooded areas where the sense of enclosure is a feature that should be maintained, an one hundred (100) feet deep “no-build, no-cut” buffer as measured from the street right-of-way should be respected to preserve existing vegetation.
 - e) Locate building sites away from prominent hilltops or ridges.
 - f) Design around and preserve sites of natural significance, such as existing hedgerows and/or tree lines between field and meadows, streams, creeks, etc.
 - g) Design around and preserve sites of historic, archeological, or cultural value, and their environs, insofar as needed to safeguard the character

Article 4. Zone Regulations, OS-1 Open Space Overlay Zone

of the feature, including stone walls, spring houses, barn foundations, earthworks, burial grounds, etc.

- (6) **Streets.** Streets within the OS-1 Open Space Overlay Zone shall be developed according to the following standards that promote road safety, minimize visual impacts, and minimize impervious surfaces:
- a) Streets shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds.
 - b) Street widths and construction shall conform to the width and standard shown in the street standards as adopted by the Town of Walden and the Town of Walden Subdivision Regulations.
 - c) The number of local street intersections with collector and arterial roads should be minimized, however, the applicant must demonstrate that such intersections are adequate, have the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.
 - d) If a subdivision in the OS-1 Open Space Overlay Zone abuts another subdivision or existing development, direct links should be made to emphasize the connection between existing and new development.
 - e) Streets shall be located to avoid or minimize adverse impacts on Conservation Areas.
 - f) Streets traversing existing slopes over fifteen (15) percent shall be allowed only if not other reasonable alternative exists.
 - g) Streets shall be encouraged to minimize the number of new cul-de-sacs to be maintained by the Town of Walden and to facilitate easy access to and from homes.
 - h) Where cul-de-sacs are necessary, those serving six (6) or fewer homes may be designed with hammerheads (as defined herein).
 - i) Cul-de-sacs shall generally be designed with a central island containing native trees and shrubs.
 - j) A pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or existing open space on adjoining developed parcels, where applicable).
 - k) Streets, including entrances, shall be located in such a manner that will allow for the safe and efficient movement of traffic. (Ord. 2005-248 8/9/05)
- (7) **Application Process.** The application process is designed to take ninety (90) days starting with the submission of a concept plan. The Planning Commission and the Board of Mayor and Aldermen shall have the responsibility for reviewing open space development proposals under this Article in accordance with the following five-step procedure:
- a) **Step One.** A pre-application meeting with the Town Recorder to discuss:
 - 1) The application process;
 - 2) The Town of Walden's Zoning, Subdivision, and open space regulations;
 - 3) Any proposed common ownership plans for land and structures; and

Article 4. Zone Regulations, OS-1 Open Space Overlay Zone

- 4) Management and ownership of designated open space.
- b) **Step Two.** Submittal of a Draft Concept Plan that contains:
 - 1) Base mapping at a scale of 1" = 100' (one inch equals 100 feet);
 - 2) A mapped Resource Inventory that includes:
 - a. topographic contours at 10-foot intervals based at least upon topographical maps published by the U.S. Geological Survey and showing all slopes over twenty-five (25) percent;
 - b. hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales and drainageways;
 - c. vegetation present on the site according to cover type (pasture, woodland, etc.) and vegetative type (classified as generally deciduous, coniferous or mixed);
 - d. historic sites; and
 - d. current land use including all buildings and structures;
 - 3) A Site Analysis that identifies, precisely locates, and calculates the acreage of Primary Conservation Areas, Secondary Conservation Areas, and remaining developable area;
 - 4) A map showing connections to dedicated open space or preservation areas;
 - 5) Street, open space and lot layout. (Street and lot layout shall follow guidelines previously listed.);
 - 6) Street sections;
 - 7) Building setbacks;
 - 8) Landscape plan;
 - 9) Conservation plan;
 - 10) Utility easements; and
 - 11) If applicable, statement of intent to establish a homeowner's association.
- c) **Step Three.** A meeting with the Regional Planning Agency to review the Draft Concept Plan. Review shall include an onsite tour. The Regional Planning Agency shall schedule a mutually convenient date to walk the property with the applicant, his/her site designer, and the appropriate staff of the Hamilton County Public Health Department (for unsewered developments). The purpose of this visit is to familiarize the Regional Planning Agency with the property features, and to provide the Agency an opportunity to offer guidance to the applicant regarding the location of conservation areas and potential structure locations and street alignments before review by the Planning Commission. The Draft Concept Plan should then be revised to reflect any agreed changes for presentation as a Concept Plan to the Planning Commission.
- d) **Step Four.** Review of Concept Plan by the Planning Commission. This Plan is a preliminary engineered plan drawn to illustrate the proposed layout for greenway lands, building sites, and street alignments. This is the stage in which drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. The Concept Plan shall contain all of the elements of the Draft Concept Plan and will be the basis for the Site Plan.
- e) **Step Five.** Submission of a Site Plan for review by the Planning Commission and the Board of Mayor and Aldermen. Once the Concept

Article 4. Zone Regulations, OS-1 Open Space Overlay Zone

Plan has been completed, and preliminary certified by an engineer, and referred by the Planning Commission to the Board of Mayor and Aldermen the applicant shall complete a final engineered plat of the proposed subdivision and file this plat with the Regional Planning Agency which shall review and forward the final plat to the Board of Mayor and Aldermen for final review within thirty (30) days of receiving the plat, assuming the applicant has provided the required information in a timely matter. All site plan approvals will be subject to the approval of the open space conservation plan and the dedication of required conservation easements.

- (c) **Permitted uses.** The uses of the underlying zone (R-1 or E-1) are permitted uses in the Open Space Overlay Zone.
- (d) **Accessory uses.** The accessory uses of the underlying zone (R-1 or E-1) are accessory uses in the Open Space Overlay Zone.
- (e) **Special Uses.** The special uses of the underlying zone (R-1 or E-1) may be permitted in the Open Space Overlay Zone with the approval of a Special Permit.
- (f) **Yard, Area and Building Size requirements.** The following are yard, area and building size regulations for permitted dwellings units in the Open Space Overlay Zone.
 - (1) Area and bulk requirements in a conservation subdivision served by individual well and septic systems are as follows:
 - a) Minimum Lot area:
 - 1) The minimum lot area of each lot used for residential purposes shall be 12,000 square feet.
 - 2) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.
 - b) Lot width at front yard setback line: minimum of fifty (50) feet.
 - c) Yard dimensions:
 - 1) Front and rear yard: minimum twenty (20) feet;
 - 2) Side yard (each side): minimum ten (10) feet or ten (10) percent of lot width, whichever is greater.
 - d) Maximum building height: Thirty-five (35) feet (two and one half (2 1/2) stories, first finished floor level must be a minimum two (2) feet above grade).

Article 5. Sanitary Wastewater Discharge Requirements

5.01 Commercial Development. No building permit shall be issued for any commercial development constructed after the effective date of this Ordinance unless the system meets the following regulations.

- (a) Prepared, approved, signed, sealed, and designed by a professional engineer registered by the State of Tennessee normally engaged in designing septic systems;
- (b) Designed and installed per requirements of Hamilton County Health Department and the regulations governing subsurface sewage disposal systems published by the Department of Environment and Conservation, Division of Ground Water Protection; or
- (c) Any licensed engineer who varies from the requirements of the Hamilton County Health Department by changing their decision or specifications through the power or authority of his/her Engineer's license will be held responsible for the effective non-polluting operation of the sewage system for a period of ten (10) years and shall furnish a performance bond equal to the installation cost plus thirty (30) percent, payable to the Town of Walden. This bond to be forfeited forty-five (45) days after notice or attempted notice by registered mail at the address furnished by the engineer at the time of the design change or modification. Should any lawsuit by the engineer, who designed and installed the system under discussion, against the Town of Walden for any reason pertaining to this sewage system at any time after inspection and acceptance by the Hamilton County Health Department and one other licensed engineer, who is qualified to participate in this inspection, said engineer who designed and installed the system agrees and accepts total legal costs for himself and the Town of Walden. The installing contractor also accepts responsibility to pay licensed engineer necessary to inspect the installation prior to acceptance by the Hamilton County Health Department.

5.02 Residential Development. No building permit or occupancy permit shall be issued for any residential dwelling unit constructed after the effective date of this Ordinance unless the system meets the following regulation:

- (a) Design and installation requirements of Hamilton County Health Department;
- (b) Regulations governing subsurface sewage disposal systems, Department of Environment and Conservation, Division of Ground Water Protection; and
- (c) Any licensed engineer who varies from the requirements of the Hamilton County Health Department by changing their decision or specifications through the power or authority of his/her engineer's license will be held responsible for the effective non-polluting operation of the sewage system for a period of ten (10) years and shall furnish a performance bond equal to the installation cost plus thirty (30) percent, payable to the Town of Walden. This bond to be forfeited forty-five (45) days after notice or attempted notice by registered mail at the address furnished by the engineer at the time of the design change or modification. Should any lawsuit by the engineer, who designed and installed the system under discussion, against the Town of Walden for any reason pertaining to this sewage system at any time after inspection and acceptance by the Hamilton County Health Department and one other licensed engineer, who is qualified to participate in this inspection, said engineer who designed and installed the system agrees and accepts total legal costs for himself and the Town of Walden. The installing contractor also accepts responsibility to pay licensed engineer necessary to inspect the installation prior to acceptance by the Hamilton County Health Department.

Article 6. Steep Slopes and Escarpment

6.01 Steep Slopes. No building or structure shall be constructed on any slope of greater than twenty-five (25) percent, as shown on slope maps in the office of the Hamilton County Department of Building and Zoning, with the exception that construction of one dwelling shall be allowed on any lot of record.

6.02 Escarpment. No building or structure shall be constructed within 100' of the easternmost city limit line of the Town of Walden, as of November 11, 2002, from, and including, Tax Map #081O-A-018 running southwesterly to, and including, Tax Map #108C-A-009.05. (Ord. #2005-248, 8/9/05)

Article 7. Administration and Enforcement

7.01 Permits Required. A building permit shall be obtained from the Director of Building and Zoning of Hamilton County before starting or proceeding with the erection, alteration, or moving of any building or structure, or changing the use of any building, structure, or land, except that no building permit shall be required for (i) agricultural uses and accessory farm buildings, except where electricity and/or plumbing shall be installed a permit is required, (ii) for home gardening or similar uses in any zone, (iii) the remodeling or alteration of residential dwelling units where the cost of such remodeling is \$1,500.00 or less and does not involve plumbing, structural or electrical work or (iv) the construction of accessory buildings to dwelling units which otherwise conform to the requirements of this Ordinance if the cost of construction, remodeling, or alteration is \$1,500.00 or less and does not involve plumbing, structural or electrical work .

7.02 Fees for Permits. All permits and penalties are established by the Board of Mayor and Aldermen and are subject to change by resolution of said board.

7.03 Building Permits and Inspection. The Director of Building and Zoning of Hamilton County shall, among other things, administer the provisions of this Ordinance pertaining to the issuance or withholding of permits for the erection, alteration, and use of buildings, structures, and land as prescribed in this Ordinance. The permit office shall issue or withhold any permit, in any form, as directed by the Board of Mayor and Aldermen; failure to obtain a building permit shall be a misdemeanor with the penalties as provided by this Ordinance. The permit office shall not be liable for legal action for issuance of any such permit by the direction of the Board of Mayor and Aldermen.

7.04 Enforcement. It shall be the duty of all the officers otherwise charged with the enforcement of the law to enforce this Ordinance and all the provisions of the same.

7.05 Penalties for Violation. Any person, firm, or corporation whether as principal, agent, employee, or otherwise violating any provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25.00 or not more than \$500.00 per violation. Such person, firm, or corporation shall be deemed guilty of a separate offense for each day during which any violation of this Ordinance is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

7.06 Remedies for Removing Violations.

- (a) It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure or to use any land in violation of any provision of this Ordinance or any amendment thereof enacted or adopted by the Board of Mayor and Aldermen.
- (b) Any person, firm, or corporation violating this regulation shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law.
- (c) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.
- (d) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained, or used or any land is or is proposed to be used in violation of this Ordinance or of any regulation, or provision enacted or adopted by the Board of Mayor and Aldermen under the authority granted by this Ordinance, the Town of Walden, acting by and through the board, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding, or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use in addition to, and not in lieu of, any other right or remedy provided by this or any other Ordinance of the Town of Walden or any federal or state statute, rule, regulation, or law, whether at common law or in equity.

Article 8. Special Permits

8.01 Applications for a Special Permit:

Persons desiring consideration for a Special Permit shall apply to the Regional Planning Commission through the Regional Planning Agency and shall supply information for such permit. Upon recommendation by the Planning Commission, the Special Permit request shall be heard by the Board of Mayor and Aldermen. The Board shall determine that the proposed use will not be in conflict with the adopted plans of the Town of Walden and shall generally consider (i) the effect the proposed use will have on adjacent property; (ii) the public health, safety, morals and general welfare; and (iii) the need for such development. In addition to the criteria set forth above, the Board shall also consider the following with regard to the specific use.

A notice of the public hearings held by the Board shall be sent by regular mail to each of the property owners within a minimum of 300 feet of each property in question before the Board. Said notice will be mailed at least seven (7) days prior the public hearing by the Board. The most updated tax rolls for Hamilton County will be the source of ownership information for Board purposes. A notice of the public hearings held by the Board shall be published in a daily paper at least fifteen (15) days before the hearing. (Ord. # 2005-248, 8/9/05)

(a) Bed and Breakfasts in A-1, E-1 and R-1

The Board of Mayor and Aldermen may grant a Special Permit provided that the applicant furnishes satisfactory proof of convenience, necessity, and absences of harmful effect on surrounding property. It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan together with other information as determined by the Board of Mayor and Aldermen.

(b) Cemeteries

The Board of Mayor and Aldermen may grant a Special Permit provided that the applicant furnishes satisfactory proof of convenience, necessity, and absences of harmful effect on surrounding property. It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan together with other information as determined by the Board of Mayor and Aldermen.

(c) Day Care Centers

A Special Permit may be granted for a day care center in zones where a permit is required by the Board of Mayor and Aldermen, subject to:

- (1) A site plan being submitted showing the location of the building, playground area, driveways, parking and loading areas, and other materials, if requested;
- (2) The review and approval by an engineer designated by Walden of the points of ingress and egress, internal circulation, loading areas and on-site parking;
- (3) The installation of a secured playground; and
- (4) The residential character of the neighborhood is not diminished.

Issuance of a Special Use Permit by the Board of Mayor and Aldermen shall not be deemed to constitute evidence of or compliance with any federal or state requirements applicable to such day care center.

Article 8 Special Permits

- (d) Manufactured homes constructed as a single, self-contained unit and mounted on a single chassis.

It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, and building setback together with other information as determined by the Board of Mayor and Aldermen.

- (e) Commercial radio, television, telephone, and microwave towers in the A-1 Agricultural Zone and the C-1 Commercial Zone provided that the requirements in Title 20, Chapter 4 of the Walden Municipal Code (Ordinance No. 99-208 and amendments thereto) are met.
- (f) Adult-oriented Establishments

For adult-oriented establishments in the LM-1 Light Manufacturing Zone, provided that the use meets the following definitions, conditions, restrictions and other provisions:

(1) Definitions

For the purpose of these regulations, certain terms and words shall be defined as follows:

- **Adult:** Any person who is eighteen (18) years of age or older.
- **Adult-oriented Establishments:** Sexually explicit establishments which cater to an exclusively adult clientele and including, but not limited to: adult bookstores, adult motion picture theaters, cabarets, massage parlors and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement.
- **Adult Book Store:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, motion pictures, periodicals, and other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Anatomical Areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.
- **Adult Motion Picture Theater:** Any public place, whether open or enclosed, used for presenting material distinguished or characterized an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Area" (as defined below) for observation by patrons therein.
- **Cabaret:** Any restaurant, bar, dance hall, nightclub or other such place which features exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers.
- **Massage Parlors:** Any premises, public place, place of business or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee or any other form of consideration a massage, a bath, body painting or similar massage services or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a duly licensed physical surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.
- **Massage:** Shall mean the administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise

manipulating a part or the whole of the human body or the muscles or joints thereof, by any physical or mechanical means. Massage shall also mean the giving, receiving, or administering of a bath to any person or the application of oil, lotion, body paint, or other such embrocating to any person.

- **Minor:** Any person less than eighteen (18) years of age.
- **Public place:** Shall mean any place to which the public or a substantial group of persons has access and congregates, regardless of whether admission is charged thereto, and includes, but is not limited to: businesses open to the public; highways; transportation facilities; schools; places of amusement; parks; playgrounds; hotels; theaters; auditoriums; restaurants; nightclubs; cocktail lounges; and burlesque houses.
- **School:** An academic learning center, whether public or private, from the level of nursery through twelfth grade.
- **Specified Sexual Activities**
 - (a) Human genitals in a state of actual or simulated sexual stimulation or arousal;
 - (b) Acts of actual or simulated human masturbation, sexual intercourse or sodomy; and
 - (c) Actual or simulated fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- **Specified Anatomical Areas**
 - (a) Less than completely and opaquely covered:
 - (i) Human genitals, pubic region;
 - (ii) Buttock; and
 - (iii) Female breast below a point immediately above the top of the areola
 - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) Location Restrictions

Adult-oriented establishments, as defined above, are absolutely and expressly prohibited from all parts of the Town of Walden, except those portions zoned LM-1 Light Manufacturing District. Furthermore, the location and operation of adult-oriented establishments within the above specified zones will not be permitted unless a Special Permit is obtained from the Town of Walden Board of Mayor and Aldermen, subject to the following additional restriction.

(3) Special Permit Restrictions for Adult-oriented Establishments

In no case shall an adult-oriented establishment be permitted to locate within 500 feet of any boundary of an A-1 Agricultural District, R-1 Residential District, E-1 Estate District, C-1 General Commercial District, VC-1 Village Center Zone or within 500 feet of a residential use within any zone, nor shall any proposed adult-oriented establishment be permitted to locate within 500 feet from the nearest property line of a site which is used for the purpose of a recreational park, place of worship, school, day care center, or other adult-oriented establishment. Measurement shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of the above-mentioned uses.

(4) Evaluation

For the purpose of enforcing the regulations of this action, it shall be the

responsibility of the Planning Commission to evaluate and advise the Town of Walden Board of Mayor and Aldermen regarding compliance of a proposed adult-oriented establishment with the special restrictions set forth herein. It shall be the responsibility of the applicant to supply site plans, maps, surveys or other such special information as might reasonably be required and requested by the Planning Commission staff for use in making a thorough evaluation of the proposal.

(5) Revocation and Hearing

Expansion, relocation, substantial misrepresentation, violation of any of the terms of this Ordinance or change in dominant sales items or services offered to the public or failure to operate the establishment in conformity with any terms and specifications set forth in the conditions attached to the Special Permit after notice and hearing. Notice of the hearing before the Board of Mayor and Aldermen for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to applicant's last known address at least five (5) days prior to the date set for hearing.

(6) Adult-Oriented Establishments - Unlawful Acts

It shall be unlawful for any person to own, manage or operate an adult-oriented establishment in any zone other than the LM-1 Light Manufacturing District or to own, manage, or operate such an establishment without obtaining a Special Permit as hereinabove required.

(7) Enforcement

The provisions set forth in Article VII of this Ordinance, Section 7.03, 7.04, 7.05 are hereby adopted and become a part thereof as though specifically copied herein.

(g) Assisted Living Facilities in the C-1 General Commercial Zone

(See T.C.A. §13-24-104 for the exemption of residential homes operated on a non-commercial basis.)

Application to the board shall be accompanied by a site plan, drawn to scale, showing the following information:

- (1) Size and location, and use of all buildings and structures;
- (2) Parking and loading facilities;
- (3) Points of ingress and egress;
- (4) Surrounding land uses; and
- (5) A list showing:
 - a) Number of residents;

Article 8 Special Permits

- b) Number of employees, visitors and/or volunteers who may reasonably be expected at any one time;
- c) State licensure department (if applicable); and
- d) Type of license, requirements of license and nature of operation.

The board shall find that such uses are appropriate to the zone in which they are proposed to be located; that the proposed use will not conflict with the developed character of the area; that an engineer designated by the Town of Walden has approved all plans for the points of ingress and egress, parking and loading facilities; and that the proposed use will not be in conflict with the adopted plans of the community. Prior to operating any of the above uses, both the Special Permit and the state license (where applicable) must be obtained.

(h) Assisted Living Facilities in the A-1, E-1 and R-1 Zone

It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan together with other information as determined by the Board of Mayor and Aldermen.

(See T.C.A. §13-24-104 for the exemption of residential homes operated on a non-commercial basis.)

(i) Public Utilities

A Special Permit may be granted for public utility uses, structures, and accessory facilities, including transmission lines, substations, railroad yards, lines and stations, bus loading or waiting platforms or buildings, dams, temporary work camps, or other governmental agency uses and buildings, temporary contractors camps, and buildings on public works projects and other similar public service uses and builds, radio and television broadcasting stations, and studios, on condition that location of building plans be approved by the Board of Mayor and Aldermen. It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan together with other information as determined by the Board of Mayor and Aldermen.

(j) Townhouses in R-1

A Special Permit may be granted for townhouses in the R-1 Zone by the Board of Mayor and Aldermen. The intent of the regulations with this Special Permit is to limit development of townhouses in the R-1 Zone to parcels of land bordering Taft Highway. There shall be no access provided to the townhouse development off any street other than Taft Highway. It is the intent of this section to provide regulations for the development of townhouses (also called rowhouses and attached homes), single-family zero lotline dwellings (also called patio homes), and/or mixed use moderate density residential development in a manner which provides for efficient use of land, and is compatible with surrounding development. It is further intended that these regulations provide for standards which will foster compatibility between townhouse development and lower density, standard single-family uses. It is also intended that townhouse development be sold in "fee simple" to encourage owner occupancy. For purposes of the townhouse special permit, the term "exterior street" refers to any public, dedicated and accepted street existing prior to the townhouse development, the term

“interior street” refers to any street built as part of the townhouse development, both sides of which are contained in the townhouse special permit area.

(1) Height, Area and Building Regulations:

- a) Maximum density shall not exceed two (2) units per acre for attached or detached dwelling units.
- b) Minimum lot width for zero lot line or single-family detached units shall be thirty-five (35) feet. Minimum lot width for townhouse units shall be twenty-four (24) feet.
- c) All buildings except detached single-family houses must be set back at least forty (40) feet from any exterior dedicated public street. The setback may be reduced to twenty-five (25) feet if the landscaping requirement in 8.01K(2) is provided along the exterior street(s). Detached single-family houses must be set back at least 25 feet from any exterior dedicated public street.
- d) No building shall be located less than twenty-five (25) feet from any boundary of the townhouse special permit boundary.
- e) Front setback from any interior street shall be fifteen (15) feet or ten (10) feet if rear parking and loading is provided.
- f) Side yard setback for zero lot line units must be from zero (0) to one and one-half (1 1/2) feet, or a minimum of ten (10) feet from the adjacent property line if buildings are to be separated over a tenth of a foot. The eave overhang is the only permitted element of the building structure allowed in the one and one-half (1 1/2) feet setback. The opposite side yard must be at least ten (10) feet and must be kept perpetually free of permanent obstructions (such as accessory buildings).
- g) For zero lot line units, no windows, doors, or other openings are permitted on the zero lot line side of the structure.
- h) Detached single-family houses and two unit townhouses shall be separated by not less than forty (40) feet, except ten (10) feet from side to side.
- i) Three or more unit town homes shall be separated by not less than forty (40) feet except fifteen (15) feet end to end or end to the side of other permitted housing types.
- j) Maximum height of buildings shall be thirty-five (35) feet.
- k) Sidewalks, if provided, are to be built according to jurisdictional standards.
- l) All property lines abutting R-1 zoned property must provide a ten (10) feet deep (as measured towards the interior of the property) landscape yard along the shared property line planted with evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows (spaced a maximum of seven feet apart) of shrubs spaced a maximum of eight (8) feet on-center.

Article 8 Special Permits

- m) Townhouse development which fronts on exterior public streets must have front yards which are at least sixty-five (65) percentage grass/landscaping with any driveway and/or sidewalk to be composed of concrete or pavers. Landscaping along all property lines fronting exterior streets must be provided subject to review and approval of a site-specific landscape plan.
- n) A site plan (1 inch = 200 feet) shall be submitted with the special permit application and shall show the following:
 - 1) Special permit boundary.
 - 2) Site access and preliminary street layout.
 - 3) Type of off-street parking.
 - 4) Preliminary lot design.
 - 5) Range of lot sizes.
 - 6) Number of lots.
 - 7) Acreage.
 - 8) Open space/recreation areas if provided.
 - 9) All buffer, landscape and screen areas including site specific landscape design.

(2) Off-Street Parking Regulations

- a) Off-street parking shall be provided on the same lot or on a lot adjacent to the structure it serves at a rate of two (2) spaces per dwelling unit. Units with four bedrooms or more shall be required to have three (3) parking spaces.
- b) There shall be one (1) space for every three (3) seats in the main auditorium of churches and other public buildings.

(3) Provision for Special Access and Utility Easements

Due to the special nature of these housing types, the Planning Commission and/or the Board of Mayor and Aldermen may insist on special access easements and other arrangements to provide for adequate servicing and maintenance of the structures even though such easements and provisions might not normally be specified in the Walden Subdivision Ordinance. These easements and special covenants are to be shown on the subdivision plat at the time of its recording. In addition, deed restrictions or other provisions may be required to assure that any remodeling or reconstruction of destroyed units will be accomplished in a fashion which will be compatible with the remaining units.

- (k) Warehouses (mini or self-storage) in the LM-1 Light Manufacturing Zone.

It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and

Article 8 Special Permits

a parking plan together with other information as determined by the Board of Mayor and Aldermen.

- (1) There shall be no outdoor storage of any kind.
- (2) The perimeter of the site shall have a ten (10) feet deep (as measure towards the interior of the property) landscape yard planted and maintained with:
 - a) Evergreen trees (see 2)a. below) spaced a maximum of ten (10) feet on-center and two (2) staggered rows (spaced a maximum of seven (7) feet apart) of shrubs (see 3)a. below) placed a maximum of eight (8) feet on-center.
 - b) The applicant shall meet the installation and planting size requirements specified below:
 - 1) All landscaping material shall be installed in a professional manner, and according to accepted planting procedures specified in the Arboricultural Specifications Manual available from the Regional Planning Agency.
 - 2) Screening Trees: All screening trees shall be installed at a minimum height of five (5) to six (6) feet and have a minimum expected mature spread of eight (8) feet.

a. Recommended Species:

<u>Common Name</u>	<u>Scientific Name</u>
Atlas Cedar	Cedrus atlantica
Deodar Cedar	Cedrus deodara
Eastern Red Cedar	Juniperus virginiana
Leyland Cypress	Cupressocyparis leylandii
Carolina Hemlock	Tsuga caroliniana
Canadian Hemlock	Tsuga canadensis
American Holly	Ilex opaca
Foster Holly	Ilex attenuata 'Fosteri'
Southern Magnolia	Magnolia grandiflora
Loblolly Pine	Pinus taeda
Virginia Pine	Pinus virginiana
White Pine	Pinus strobus

- 3) Screening Shrubs: All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight (8) feet and a mature spread of at least five (5) feet.

a. Recommended Species

<u>Common Name</u>	<u>Scientific Name</u>
Burford Holly	Ilex cornuta 'Burfordii'
English Holly	Ilex aquifolium
Nellie R. Stevens Holly	Ilex cornuta 'Nellie Stevens'

Article 8 Special Permits

Cherrylaurel	Prunus caroliniana
English Laurel	Prunus laurocerasus
Fragrant Olive	Eleagnus pungens
Leatherleaf Viburnum	Viburnum rhytidophyllum
Wax Myrtle	Myrica cerifera

- 4) Prohibited Plants: The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, and nuisance:

Kudzu Vine	Garlic Mustard
Purple Loosestrife	Paulownia
Japanese Honeysuckle	Multiflora Rose
Shrub Honeysuckle	Siberian Elm
Autumn Olive	Silver Poplar
Common Privet	Mimosa
Tree of Heaven	Mulberry
Lespedeza	Silver Maple

- (l) Plumbing and electrical shops, radio and TV shops, appliance repair shops, and similar workshop type uses provided that not more than three (3) repair persons are employed within in the C-1 General Commercial Zone

The Board of Mayor and Aldermen may grant a Special Permit provided that the applicant furnishes satisfactory proof of convenience, necessity, and absences of harmful effect on surrounding property. It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan together with other information as determined by the Board of Mayor and Aldermen.

- (m) Liquor stores in the VC-1 Village Center Zone and C-1 General Commercial Zone

The Board of Mayor and Aldermen may grant a Special Permit as authorized by Section 57-3-208 of the Tennessee Code Annotated and Section 1, Title 8, of the Walden Municipal Code to allow a business to conduct the sale of Liquor. (Ord. 2004-241 1/11/05)

- (n) Buildings or Structures with a footprint greater than 5,000 square feet in the C-1 General Commercial Zone.

The Board of Mayor and Aldermen may grant a Special Permit provided that the applicant furnishes satisfactory proof of convenience, necessity, and absence of harmful effect on surrounding property. It is a requirement that the applicant for a Special Permit furnish a site plan with the application that depicts the proposed use of the property to include, but not limited to, site access, building configuration, maximum footprint size, building setback, proposed landscaping, drainage, and parking plan, as well as other pertinent information as determined by the Board of Mayor and Aldermen.

The Board of Mayor and Aldermen may grant a Special Permit from the maximum footprint size based on one or more of the following criteria:

- (a) The applicant presents an alternative that complies with the stated intent, goals, and general standards of the zone as defined in the Zoning Ordinance.

Article 8 Special Permits

- (b) The proposed maximum footprint is consistent with the adopted plans and principles for the area.
- (c) The proposed maximum footprint is compatible with the character of the area where it is proposed and with the size and location of the buildings in the vicinity.
- (d) Physical conditions of the property, such as steep slopes, drainage or sewer easements, or small or irregular lot shape make compliance of the maximum footprint requirement impossible.

The Board of Mayor and Aldermen may condition approval of the Special Permit allowed in this section on one or more requirements reasonable necessary to achieve the intent, goals, and general standards of the Zoning Ordinance. (Ord.2017-318, 7/11/17)

8.02 Granting Permits. In granting the Special Permit, the Board of Mayor and Aldermen may, in addition to granting uses detailed in this Ordinance, allow exceptions in minimum site area (lot) requirements, and off-street parking requirements.

No building permits shall be issued until the Board of Mayor and Aldermen has approved the Special Use Permit.

No Special Permit shall be approved by the Board of Mayor and Aldermen unless it is first submitted to and approved by the Chattanooga-Hamilton County Regional Planning Commission or, if disapproved, shall receive a favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen.

A Special Permit may be issued on condition that the location and method of operation be approved by the Board of Mayor and Aldermen, however, in all instances, the proposed facility must conform with all applicable State and Federal requirements or regulations.

8.03 Expiration. Any Special Permit shall expire twelve (12) months from and after its issuance if development as allowed by the Special Permit has not occurred.

Article 9. Board of Appeals for Variances

9.01 Creation and Membership of a Board of Appeals.

- (a) The first Board of Appeals appointed shall serve terms of one (1), two (2), and three (3), four (4) and five (5) years respectively. Thereafter, terms shall be for five (5) years and vacancies shall be filled for the unexpired terms only. The Board of Mayor and Aldermen shall have power to remove any member or associate member of the Board of Appeals for cause, after a public hearing. (Ord. 2005-248, 8/9/05)

9.02 Meetings and Rules of the Board of Appeals.

- (a) The Board of Appeals shall designate one of its number Chairman, who shall call meetings of the Board of Appeals at such times and places within the Town as the Board of Appeals may determine. The Chairman may administer oaths and compel the attendance of witnesses.
- (b) The Chairman may, in the absence of a regular Board of Appeals member from a meeting, appoint one (1) of the associate members to temporarily fill the vacancy.
- (c) The Board of Appeals shall keep minutes of its proceedings and records of its examinations and other official actions, which shall be filed at the office of the Board of Appeals and constitute a public record.
- (d) The Board of Appeals may adopt its own rules of procedure not in conflict with this Ordinance.
- (e) In the performance of its duties, the Board of Appeals may employ administrative and consulting employees, and may incur such expenditures as shall be authorized by the Board of Mayor and Aldermen.

9.03 Power and Duties of the Board of Appeals.

- (a) Power to Grant Variance in Site and Area Regulations.
 - (1) The Board of Appeals shall have the power to grant variances and adjustments in the area and building site regulations of this Ordinance in cases where strict application of the regulations would result in practical difficulty or unnecessary hardship which is not attributable to the actions of the applicant or predecessors in title; but only in harmony with the spirit and intent of this Ordinance and in such a manner as to grant relief without substantial injury to the public interest and rights.
 - (2) No variation in the application of the provisions of this Ordinance or grant of a temporary permit shall be made unless after a public hearing, as provided for in this section, the Board of Appeals shall find that such variation will not:
 - a) Impair an adequate supply of light and air to adjacent property;
 - b) Increase the hazard from fire and other dangers to said property;
 - c) Diminish value of land and buildings throughout the surrounding area;
 - d) Increase the congestion or traffic hazards in the public streets or highway; and
 - e) Otherwise impair the public health, safety, comfort, morals, and general welfare of the inhabitants of the Town of Walden.The Board of Appeals may impose such conditions as will lessen any injury to the character of the subject Zone.
- (b) **Non-Conforming Uses.** The Board of Appeals may order the issuance of Temporary Permits for nonconforming uses or for uses incidental to the development of the area provided that such Temporary Permit shall:
 - (1) Be granted for an initial period not to exceed one (1) year, and

- (2) Be renewable at the direction of the Board of Appeals.

The Board of Appeals may require cash or performance bond renewable annually in favor of the Town of Walden effective in case such building or structure is not removed or remodeled to conform to the requirements of the Zone, within thirty (30) days from the date of notice of expiration of the permit. Such bond is to be in an amount as determined by a licensed professional architect or engineer registered in the State of Tennessee retained by the Town of Walden. The applicant shall pay any appraisal cost.

- (c) **Remodeling of Non-Conforming Buildings.** The Board of Appeals may allow reconstruction and remodeling of a non-conforming building where in judgment of the Board of Appeals based on plans and specifications submitted by an architect such reconstruction and remodeling will in the matter of front, side, and rear yards, structural integrity, and exterior appearance of said building make said non-conforming building safer and more healthful and bring it and its subsequent uses into fairer conformity with its surroundings.

9.04 Method of Appeal to the Board of Appeals.

- (a) Appeal from the decision of the Office of the Hamilton County Building and Zoning Director may be taken to the Board of Appeals whenever the applicant contends that the reasons for withholding a permit are inapplicable or unjust.
- (b) Similarly, the written and dated decision of the Office of the Hamilton County Building and Zoning Director granting and issuing a permit may be appealed to the Board of Appeals by any person, firm, or corporation aggrieved thereby; but such appeal shall not suspend nor supersede the issuance of the permit unless the appellant gives a bond, in an amount and with security satisfactory to the Board of Appeals, payable to the applicant for the permit, to cover all cost, damage, and expense that may accrue to him/her in the event that the appeal is not successful.
- (c) An appeal from the decision of the Office of the Hamilton County Building and Zoning Director may not be taken until after fifteen (15) days, but shall be taken within thirty (30) days from the date the decision is appealed.

9.05 Application Through Town Recorder. Applications shall be made through the office of the Town Recorder. The application shall be accompanied by the following material or other information as requested:

- (a) **Complete Plans and Descriptive Material to be Submitted.** Complete site plan and description of the property involved and site plans of the proposed buildings and uses; and, where required by the Board of Appeals, building plans, and elevations, and information on methods of operations and forms of operation contracts, leases, and other legal instruments.
- (b) **Evidence Required.** Evidence which, in the opinion of the applicant, satisfies the requirement precedent to grants of variance placed on the Board of Appeals concerning practical difficulty, unnecessary hardship, special or temporary conditions, safeguards against injury to the public interest, and similar evidence shall be required to be submitted in support of an application for a variance.
- (c) **Fees for Public Hearing Expense.** A fee established by the Board of Mayor and Aldermen, subject to change by resolution of said board, due and payable at the time of application for grant shall be paid to the Town Recorder, as agent for the Board of Appeals, to cover the cost of notices and other expenses incidental to this appeal.
- (d) **Public Hearing Expense.** Upon receipt in proper form of any such appeal or application the Board of Appeals shall hold a public hearing, thereon, notice of which shall be given at least fifteen (15) days prior to date of such hearing by one publication in a daily newspaper of general circulation throughout the Town of Walden and by personal service

or by First Class Mail to the adjoining and other property owners within a radius of 100 yards of the property affected.

- (e) **Conditions on Approval of the Board of Appeals.**
 - (1) If the Board of Appeals finds that there are good and substantial reasons for issuance of the permit, and that the conditions and restrictions described in this Section have been satisfactorily met, it may grant the variance or permit requested and direct the issuance of a permit by affirmative vote of a majority of the Board of Appeals by the Town Recorder as approved.
 - (2) In approving any variance or issuance of any permit under the provisions of this Section, the Board of Appeals may designate such conditions in connection therewith, as will, in its opinion secure substantially the objectives of the regulation or provision from which such variance is granted. Where necessary, the Board of Appeals may require appropriate guarantees to insure that the conditions designated in connection therewith are being or will be in compliance.
- (f) **Method of Appeal to Court.** Any person, firm, or corporation aggrieved by any decision of the Board of Appeals may present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the Board of Appeals. Such petitions shall not be filed with respect to the decisions of the Board of Appeals Official or any administrative officer, without recourse to the Board of Appeals.
- (g) **Final Action of the Court.**
 - (1) Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board of Appeals to review such decisions of the Board of Appeals. The allowance of the writ shall not stay proceedings upon the decision appealed. The Board of Appeals shall be required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the appealed decision.
 - (2) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decisions brought for review.
- (h) **Cost Not to be Charged to the Board of Appeals.** Cost shall not be allowed against the Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed.

Article 10. Interpretation and Amendments

10.01 Interpretation. In interpreting and applying the provisions of this Ordinance, the Board of Mayor and Aldermen shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, property, or general welfare.

10.02 Initiation of Amendments. The Board of Mayor and Aldermen may from time to time, after report thereon by the Planning Commission and after public hearings as required by law, amend, supplement, or change the number, shape, or boundaries of Zones, or any regulations or provisions of this Ordinance. An amendment, supplement, or change may be initiated by the Board of Mayor and Aldermen or recommended by the Planning Commission.

10.03 Public Hearing on Amendments. Upon receipt of a petition or proposal for change, the Planning Commission shall prepare a report on the proposed change, approving or disapproving the proposal or petition, or may specify conditions of approval or a recommended modification of the proposed change, with reason therefore, and submit it to the Board of Mayor and Aldermen. The Planning Agency, at the authorization of the petitioner, shall thereupon give notice of a public hearing to be held by the Board of Mayor and Aldermen, at a regular session of the Board of Mayor and Aldermen, to be held not less than fifteen (15) days from the date of the publication of the notice or such longer period of time, if any, as may be prescribed by the Tennessee Code Annotated. Such notice shall be by publication in a daily newspaper of general circulation throughout the Town of Walden.

10.04 Action of the Board of Mayor and Aldermen. After the official hearing by the Board of Mayor and Aldermen as described above, the Board of Mayor and Aldermen shall, by a majority vote approve or disapprove the proposed amendment, or approve the amendment with modification, but if a modification is made or additional requirements are added to the proposed rezoning by the Board of Mayor and Aldermen, the modified amendment shall be referred to the Regional Planning Commission for review, as prescribed above.

10.05 Fees for Administrative Costs. The Regional Planning Agency is authorized to charge the petitioner an amount that is commensurate with the cost of processing the application.

10.06 Procedures. A petition, once heard and denied, shall not be accepted and heard again for the same area, or any part or combination including the same area, and the same or similar change of zoning, use or other change, for a period of twelve (12) months following the denial of this petition by the Board of Mayor and Aldermen.

10.07 Incorporation of Amendment in the Language of this Ordinance. The phrase used in this Ordinance "at the time of passage of this Ordinance" shall in its application to land, and buildings, properties, and uses affected by an amendment to this Ordinance be read to mean "at the time of passage of this amendment."

Article 11. Validity and Severability

11.01 Conflicting Ordinances Revoked. Any ordinance or parts of Ordinances previously adopted by the Board of Mayor and Aldermen, which are in conflict with the provisions of this Ordinance to the extent that they are inconsistent with this Ordinance, are hereby revoked and declared null and void.

11.02 Severability. Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Article 12. Hazardous Waste

12.01 Intent.

- (a) It is the purpose of this Article to establish reasonable regulation of all commercial hazardous waste management facilities and commercial medical waste facilities (as defined in this Ordinance) relative to appropriateness of location and method of operation in order to minimize the impact on the community adjacent to and surrounding such uses and to assure and maintain the public safety and general welfare.
- (b) This basic purpose can and should be achieved without precluding or discouraging the following objectives:
 - (1) encourage innovation and the use of new technologies for waste minimization, storage and disposal;
 - (2) increase collaborative activities among area industries which have common environmental concerns; and
 - (3) facilitate access to international markets for products and technologies related to the environment while at the same time giving due concern for the environment, health and safety of the citizens of the Town of Walden.
- (c) It is the further intent of the Town of Walden to encourage the recycling, reclamation, and reuse of materials so as to remove such materials from the solid and hazardous waste stream. To this end, the Town of Walden encourages the state and federal governments to revise their rules and regulations to encourage such recycling, reclamation and reuse, after which the Town of Walden shall consider similar revisions.

12.02 Definitions. The following words and phrases, as used in this article, shall have the meanings ascribed to them in this section:

- (a) **Commercial Hazardous Waste Management Facility:** any hazardous waste management facility proposed for a new site, or through a change of operations at an existing site within this jurisdiction that stores, treats (including incineration), or disposes of hazardous waste, of which, more than ten (10) percent by volume was generated off-site during either six-month period January 1 through June 30 or July 1 through December 31 in any calendar year, with the percentage to be the percent of the amount generated off-site at the receiving facility during the corresponding time period of the preceding calendar year.
- (b) **Generate:** the act or process of producing hazardous wastes or medical wastes.
- (c) **Off-Site:** any property that is not classified as on-site by these regulations.
- (d) **On-Site:** on the site of generation. "On-site" further means the same or geographically contiguous property which may be divided by public or private right(s)-of-way. Noncontiguous property owned by the hazardous waste generator that is connected by a right-of-way which such hazardous waste generator controls and to which the public does not have access is also considered on-site property.
- (e) **Hazardous Waste:** a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical chemical, or infectious characteristics may
 - (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

- (f) **Commercial Medical Waste Management Facility:** any medical waste management facility proposed for a new site or through a change of operations at an existing site within this jurisdiction used for treatment (including incineration), storage or disposal of any medical waste generated off-site, except that a facility that receives medical waste that is generated only at a site or sites owned or operated by the same corporation, or subsidiaries of such corporation, or sites under contract to such corporation for medical wastes generated by the corporation shall not be deemed to be a commercial medical waste management facility provided that the volume of medical waste received from such sites and placed in storage for more than one calendar month does not exceed twenty-five (25) percent of the storage capacity at the designated accumulation area of the facility, referred to at the definition of "storage" in Title 40 CFR 259.10(a), Revised as of July 1, 1991, regarding Standards for the Tracking and Management of Medical Waste, and identified as required in Article 12, Section 12.02 of this Ordinance, and provided that during no calendar month may more than twenty-five (25) percent of the total medical waste treated or disposed at the facility be from such sites, and the facility shall maintain records available for public inspection for two (2) years to demonstrate compliance.
- (g) **Medical Waste:** solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host could result in an infectious disease. All of the following types of wastes shall be considered to be medical wastes for the purposes of these regulations:
- (1) Biological wastes and discarded materials contaminated with blood, excretion, exudates, or secretions from patients who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases;
 - (2) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
 - (3) Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;
 - (4) Liquid waste human blood; products of blood; items saturated and/or dripping with human blood; or items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals; and intravenous bags;
 - (5) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips;
 - (6) Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals; and

Article 12. Hazardous Waste

- (7) The following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.
- (h) **Storage:** holding hazardous waste or medical waste for a period of more than ninety (90) days, at the end of which the hazardous waste or medical waste is treated, disposed of, or stored elsewhere. A commercial hazardous waste management facility or a commercial medical waste management facility shall not be subject to the ninety (90) days restriction for the purposes of this definition and these zoning regulations if it either:
- (1) Generates more than 100 kilograms and less than 1000 kilograms of hazardous waste or medical waste in a calendar month; and the quantity of waste accumulated on-site never exceeds 6000 kilograms; and the facility has complied with all other applicable provisions of 40 CFR 262.34(d), in which case accumulation on-site would constitute "storage" after 180 days.
 - (2) If such a facility must transport its hazardous waste or medical waste or offer them for transportation over a distance of 200 miles or more for off-site treatment, storage or disposal, then accumulation on-site would constitute "storage" after 270 days; or
 - (3) Generates less than 100 kilograms of hazardous waste or medical waste in a calendar month; and generates one (1) kilogram or less of acute hazardous wastes listed in 40 CFR 261.31, 261.32, or 261.33(e); and generates 100 kilograms or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in 40 CFR 261.31, 261.32, or 261.33(e); and the quantity of hazardous or medical waste accumulated on-site never exceeds 1000 kilograms; and the facility has complied with all other applicable provisions of 40 CFR 261.5, in which case accumulation on-site could continue indefinitely at a facility that is not otherwise a "commercial hazardous waste facility" or a "commercial medical waste facility" for the purposes of these zoning regulations.
- (i) **Construction:** in general, initiation of physical on-site construction activities on a management unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities, other than preparation activities, which mark the initiation of the change.
- (j) **100-Year Floodplain:** any land area which is subject to a one percent or greater chance of flooding in any given year from any source as defined in 44 Code of Federal Regulations Part 67, Final Flood Elevation Determinations and as effective on the date of issuance of the Flood Insurance Rate Map showing the 100-year flood elevations for the community.
- (k) **500-Year Floodplain:** any land area which is subject to a two tenths chance in one hundred (one chance in five hundred) of being flooded in any one-year period as shown on the Flood Insurance Rate Map or the Flood Hazard Boundary Map.
- (l) **Flood Hazard Boundary Map:** an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been designated.
- (m) **Flood Insurance Rate Map:** an official map of a community, on which the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Article 12. Hazardous Waste

- (n) **Bedrock:** the solid rock underlying unconsolidated surface material such as soil.
- (o) **Fault:** a fracture along which strata on one side have been displaced with respect to that on the other, as shown on the East Central Sheet, Geologic Map of Tennessee, 1966, William D. Hardeman, State Geologist, compiled and edited by George D. Swingle, Robert A. Miller, Edward T. Luther, William D. Hardeman, Donald S. Fullerton, C. Ronald Sykes, and R. Keith Garman.
- (p) **Thrust Fault:** a reverse fault in which the dip of the fault plane is at a low angle to horizontal and in which the hanging wall block (or upper plate) may have overridden the footwall block (or lower plate).
- (q) **Hanging Wall Block:** the overlying surface of an inclined fault plane.
- (r) **Footwall Block:** the underlying surface of an inclined fault plane.
- (s) **Sinkhole:** a hollow in a limestone region in which drainage collects that communicates with a cavern or passage.
- (t) **Private Water Supply:** all water supplies that are not public water supplies and which are primary drinking water sources.
- (u) **Public Water Supply:** a system that supplies to the public piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year.
- (v) **Scenic, Cultural or Recreational Area:** parks, forests, recreational areas, natural areas, museums, and wildlife management areas owned and/or operated by the Federal, State, and or local government (or agencies created by such government); sites included on the National Register of Historic Places established by the United States Department of Interior or forwarded for consideration for National Register listing to the United States Department of Interior by the Tennessee State Historical Commission State Review Board.
- (w) **Unit:** a contiguous area of land on or in which hazardous or medical waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.
- (x) **Land-Based Unit:** a unit subject to regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste including surface impoundments, landfills, waste piles, land treatment units, and hazardous waste management units. Units exempt from groundwater monitoring correction requirements under regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste and covered indoor waste piles in compliance with regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste are considered non-land-based units.
- (y) **Non-Land-Based Unit:** an incinerator, tank and its associated piping and underlying containment system, or container storage area, hazardous waste management units and other similar units that are not subject to regulations for land-based units promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste.
- (z) **Unstable Area:** a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of a commercial hazardous waste or medical waste treatment or storage facility's structural components responsible for preventing releases, including:

Article 12. Hazardous Waste

- (1) subsidence prone areas (i.e., areas subject to the lowering or collapse of the land surface either locally or over broad regional areas);
 - (2) areas susceptible to mass movement (i.e., where the downslope movement of soil and rock under gravitational influence occurs); and
 - (3) areas with weak and unstable soils (e.g., soils that lose their ability to support foundations as a result of expansion or shrinkage).
- (aa) **Wetlands:** lands which have hydric soils and a dominance (fifty [fifty] percent or more of stem count based on communities) of obligate hydrophytes. They include the following generic types:
- (1) Fresh water meadows;
 - (2) Shallow fresh water marshes;
 - (3) Shrub swamps with semi-permanent water regimes most of the year;
 - (4) Wooded swamps or forested wetlands;
 - (5) Open fresh water except farm ponds; and
 - (6) Bogs.

12.03 Identification of Storage Areas. A new or rebuilt facility, or an expanded portion of an existing facility, or any facility which changes its operations, proposed for use as a “commercial medical waste management facility”, as defined in these zoning regulations notwithstanding the exclusions within the definition, shall be required, in both its building permit application prior to construction or reconstruction and in any required installation permit at the Chattanooga-Hamilton County Air Pollution Control Bureau, to identify in writing on its building and operating plans any and all portions of the proposed facility or portion of an existing facility through a change in operations or expanded portion of an existing facility proposed for “storage”, as defined in these zoning regulations notwithstanding the exclusions within the definition. Such identification of storage areas shall include the total cubic footage designated for accumulation of medical wastes at the “commercial medical waste management facility”, as defined in these zoning regulations notwithstanding the exclusions within the definition.

12.04 Prohibited Uses.

- (a) No commercial hazardous waste management facility or commercial medical waste management facility unit shall be allowed to be constructed within any 500-year floodplain identified on a Flood Hazard Boundary Map or a Flood Insurance Rate Map. This restriction shall also apply to any facility that meets the definition of “commercial hazardous waste management facility” or “commercial medical waste management facility” through a change in operations that does not involve constructing or reconstructing a building, so that such facility may not operate a commercial hazardous waste management facility or a commercial medical waste management facility within any 500-year floodplain identified on a Flood Hazard Boundary Map or a Flood Insurance Rate Map.
- (b) Any construction, alteration, repair, reconstruction, or improvement to a commercial hazardous waste management facility or commercial medical waste management facility on which the start of construction was begun after the effective date of these regulations shall meet all applicable requirements for new construction as contained in these regulations, except as provided in the next sentence.
- (c) Any commercial hazardous waste management facility unit or commercial medical waste management facility unit in existence prior to the effective date of this requirement that is hereafter damaged by any means to an extent of more than fifty (fifty) percent of its assessed value may be reconstructed and used as before only if it is rebuilt in a manner that complies with all requirements in effect on the date the rebuilding commences and operates in that rebuilt portion of the unit in a manner that complies with all requirements in effect on the date that

Article 12. Hazardous Waste

operation commences in the rebuilt commercial hazardous waste management facility unit or commercial medical waste management facility unit. In addition, the following requirements must be met:

- (1) The reconstruction must not exceed the volume and external dimensions of the original structure or offer any greater obstruction to the flow of flood waters within the 500-year floodplain than did the original structure; and
 - (2) The lowest floor elevation (including basement) must be above the level of the 500-year floodplain or the structure must be floodproofed to a height above the level of the 500-year floodplain. Floodproofing measures shall be in accordance with the watertight performance standards of the publication Flood-Proofed Regulations prepared by the Office of the Chief of U.S. Army Corps of Engineers, Washington, D.C. dated March 31, 1992, which is hereby incorporated by reference as if fully set forth herein; and
 - (3) The reconstruction must commence within twelve (12) months after the damage first occurs, and the reconstruction must be completed within twenty-four (24) months after the damage first occurs. In the event of fire, flood, labor dispute, epidemic, abnormal weather conditions or acts of God, the reconstruction commencement time period and/or the reconstruction completion period will be extended in an amount equal to time lost due to delays beyond the control of the owner or operator of the facility subject to this requirement.
- (d) These requirements also apply to any commercial hazardous waste management or commercial medical waste management facility unit in existence prior to the effective date of these regulations that proposes to expand after the effective date of these regulations to the expanded portion of the facility. These requirements also apply to any commercial hazardous waste management or commercial medical waste management facility unit which is built subsequent to the adoption of these zoning regulations and thereafter damaged by any means to an extent of more than fifty (50) percent of its assessed value.
- (e) These requirements also apply to any facility that meets the definition of "commercial hazardous waste management facility" or "commercial medical waste management facility" through a change in operations that does not involve constructing or reconstructing a building, which is thereafter damaged by any means to an extent of more than fifty (fifty) percent of its assessed value.

12.05 Proximity of Commercial Hazardous Waste or Commercial Medical Waste Management Facilities to Other Uses:

- (a) All distances are to be measured from the "unit" as defined in this zoning ordinance to the nearest point of the property boundary line of the other land use.
- (b) Groundwater and Public Drinking Water Supplies.
 - (1) No commercial hazardous waste or commercial medical waste management facility unit shall be located within 2000 feet horizontally of a public drinking water supply well or public water supply intake point in a river, spring, lake, pond or reservoir, or within 1000 feet horizontally of a private drinking water supply well or private water supply intake point in a river, spring, lake, pond or reservoir.
 - (2) A commercial hazardous waste or commercial medical waste management facility unit shall not be constructed on a wetland or a sinkhole, nor drain into a sinkhole or into a wetland, and shall comply with all requirements necessary to obtain a National Pollution Discharge Elimination System (NPDES) permit.

Article 12. Hazardous Waste

- (3) No commercial hazardous waste or commercial medical waste management facility unit shall be located within an area where the depth to the seasonally high water table in the uppermost saturated zone will rise to within five (5) feet of the ground surface.
- (4) No commercial hazardous waste or commercial medical waste management facility unit at which hazardous or medical wastes are stored or treated below ground (e.g. underground tank, surface impoundment) shall be located or constructed in such a manner that the bottom of the liner system or secondary containment system is closer than ten (10) feet from the uppermost saturation area.
- (5) Vertical Buffer Zones.
 - a) Commercial hazardous waste or commercial medical waste management facility land-based units shall be located and constructed such that there is, between the bottom of the unit's liner system and the seasonably high groundwater elevation in the uppermost saturated zone underlying the unit, a buffer layer of natural and/or emplaced soil meeting one of the following descriptions:
 - 1) Ten (10) feet thick, with a saturated hydraulic conductivity of 1×10^{-5} centimeters/second, or
 - 2) Five (5) feet thick, with a saturated hydraulic conductivity of 1×10^{-6} centimeters/second.
 - b) Commercial hazardous waste or commercial medical waste management facility non-land-based units shall be located and constructed such that there is, between the bottom of the unit's secondary containment system and the seasonably high water elevation in the uppermost saturated zone underlying the unit, a buffer layer of natural and/or emplaced soil meeting one of the following descriptions:
 - 1) Four feet thick, with a saturated hydraulic conductivity of 1×10^{-5} centimeters/ second, or
 - 2) Two feet thick, with a saturated hydraulic conductivity of 1×10^{-6} centimeters/ second, or
 - 3) A buffer layer of other material, mechanically separate from the secondary containment system which will provide protection to fluid movement equivalent or superior to (e) 2)a) or b).
 - c) Hydraulic conductivity measurements are to be measured by the ASTM D5084 soil permeability test.
 - d) No commercial hazardous waste or commercial medical waste management facility unit or on-site access road to it shall be located within an area on the hanging wall block of a thrust fault line such that a vertical line as determined by a plumb line drilled by core drill to a depth of two hundred (200) feet will intersect a fault plane.
- (c) County Septic Tank Pumper Permanent Dumping Sites.

No commercial hazardous waste or commercial medical waste management facility unit shall be located within 1000 feet of any septic tank pumper permanent dumping site authorized by the Hamilton County Health Department Rules and Regulations governing subsurface sewage disposal, including open-air disposal of septic tank effluent through land absorption.
- (d) Scenic, Cultural and Recreational Areas.

Article 12. Hazardous Waste

No commercial hazardous waste or commercial medical waste management facility unit shall be located within, or within 500 feet of, a scenic, cultural or recreational area in existence on the date a completed building permit application is submitted.

(e) Structures

To minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding areas, the following minimum separation distances shall be required of any commercial hazardous waste or commercial medical waste management facility unit:

- (1) It shall not be located within 2000 feet of existing schools, hospitals, or day care centers, residences or residential zones.
- (2) It shall not be located within 200 feet of any commercial buildings, other than those which are part of the facility.
- (3) It shall not be located within 1000 feet of existing churches and non-commercial buildings, other than those which are part of the facility.
- (4) A commercial hazardous waste management facility or commercial medical waste management facility unit shall not be located within 200 feet of the facility's property boundaries.
- (5) It shall not be located within 2000 feet of an existing commercial hazardous waste management facility or commercial medical waste management facility unit or site specifically designated as a superfund site by either state or federal regulations, provided this restriction does not apply to a site which is temporarily used to ameliorate an adjacent site.
- (6) Except for the purposes of Structures (e)(4), distance measurements shall be from the nearest point in a property line of a parcel containing the non-hazardous or non-medical waste management facility use to the nearest point of the "unit" as defined in this zoning ordinance.

(f) Unstable Areas

No commercial hazardous or medical waste management facility unit shall be located or constructed in an unstable area.

12.06 Exceptions.

(a) The following solid wastes are not hazardous wastes:

- (1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this definition, if such facility:
 - a) Receives and burns only
 - 1) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
 - 2) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
 - 3) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification

Article 12. Hazardous Waste

or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

- (2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:
 - a) The growing and harvesting of agricultural crops.
 - b) The raising of animals, including animal manures.
- (3) Mining overburden returned to the mine site.
- (4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided by 40 Code of Federal Regulations 266.112 for facilities that burn or process hazardous waste.
- (5) Drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy.
- (6) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in Title 40 Code of Federal Regulations Part 261, subpart D due to the presence of chromium which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:
 - a) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
 - b) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - c) The waste is typically and frequently managed in non-oxidizing environments.
- (7) Specific wastes which meet the standard in Section 12.06 (6)(a-c) (so long as they do not fail the test for Toxicity Characteristic, and do not fail the test for any other characteristic) are:
 - a) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retain/wet finish; no beamhouse; through-the-blue; and shearing.
 - b) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retain/wet finish; no beamhouse; through-the-blue; and shearing.
 - c) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; no beamhouse; through-the-blue.
 - d) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retain/wet finish; no beamhouse; through-the-blue; and shearing.
 - e) Waste water treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet

Article 12. Hazardous Waste

- finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
- f) Waste water treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrometan/ retan/wet finish; and through-the blue.
 - g) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
 - h) Waste water treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process.
- (8) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore), except as provided by 40 Code of Federal Regulations 266.112 for facilities that burn or process hazardous waste. For purposes of 40 CFR 261.4(b)(7), beneficiation of ores and minerals is restricted to the following activities: Crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving) and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electro-winning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of 40 CFR 261.4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes:
- a) Slag from primary copper processing;
 - b) Slag from primary lead processing;
 - c) Red and brown muds from bauxite refining;
 - d) Phosphogypsum from phosphoric acid production;
 - e) Slag from elemental phosphorus production;
 - f) Gasifier ash from coal gasification;
 - g) Process wastewater from coal gasification;
 - h) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - i) Slag tailings from primary copper processing;
 - j) Fluorogypsum from hydrofluoric acid production;
 - k) Process wastewater from hydrofluoric acid production;
 - l) Air pollution control dust/sludge from iron blast furnaces;
 - m) Iron blast furnace slag;
 - n) Treated residue from roasting/leaching of chrome ore;
 - o) Process wastewater from primary magnesium processing by anhydrous process;
 - p) Process wastewater from phosphoric acid production;
 - q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
 - r) Basic oxygen furnace and open hearth furnace slag from carbon steel production;

Article 12. Hazardous Waste

- s) Chloride process waste solids from titanium tetrachloride production;
 - t) Slag from primary zinc processing.
 - (9) Cement kiln dust waste, except as provided by 40 CFR 266.112 for facilities that burn or process hazardous waste.
 - (10) Solid waste which consists of discarded wood or wood products which fails the test for the Toxicity Characteristic solely for arsenic and which is not a hazardous waste for any other reason or reasons, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.
 - (11) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of 40 CFR 261.24 (Hazardous Waste Codes D018 through D042 only) and are subject to the corrective action regulations under 40 CFR 280.
 - (12) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic (Hazardous Waste Codes D018 through D043 only) in 40 CFR 261.24 that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:
 - a) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and
 - b) A copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.
 - (13) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
 - (14) Used oil that exhibits one or more of the characteristics of hazardous waste but is recycled in some other manner than being burned for energy recovery.
 - (15) Any waste from any facility sited within Hamilton County, which waste is excluded from Title 40 Code of Federal Regulations Part 261.3 or the lists of hazardous wastes in Title 40 Code of Federal Regulations Part 261, Subpart D, by the United States Environmental Protection Agency pursuant to Title 40 Code of Federal Regulations Part 260.20 or Part 260.22 and published in either the Federal Register or in Title 40 Code of Federal Regulations Part 261, Appendix IX, or in both.
- (b) For purposes of this definition and these zoning regulations, "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material,

Article 12. Hazardous Waste

including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 33 U.S.C. 1342, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923)[42 U.S.C.A. Section 2011 et. seq.].

- (c) The following materials are not solid wastes for the purpose of this definition:
- (1) Domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.
 - (2) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial waste waters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.
 - (3) Irrigation return flows.
 - (4) Source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et.seq.
 - (5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.
 - (6) Pulping liquors (i.e. black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in 40 Code of Federal Regulations 261.1c.
 - (7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in 40 Code of Federal Regulations 261.1c.
 - (8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
 - a) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - b) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - c) The secondary materials are never accumulated in such tanks for over twelve (12) months without being reclaimed; and
 - d) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.
 - (9) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and waste waters from the wood preserving process that have been reclaimed and are reused to treat wood.
 - (10) When used as a fuel, coke and coal tar from the iron and steel industry that contains or is produced from decanter tank tar sludge, EPA Hazardous Waste K087. The process of producing coke and coal tar from such decanter tank tar sludge in a coke oven is likewise excluded from regulation.

Article 12. Hazardous Waste

- (11) Materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous waste unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.
- (d) A facility that reclaims materials that are used beneficially as provided in Section 105 C(11) from solid waste it created is not a commercial hazardous waste management facility for the purpose of this Ordinance, unless that facility also stores or disposes of hazardous waste of which more than twenty-five percent (25%) by volume was generated off-site during either six-month period January 1 through June 30 or July 1 through December 31 in any calendar year, with the percentage to be the percent of the amount generated on-site at the receiving facility during the corresponding time period of the preceding calendar year.

12.07 Zoning Requirements. Commercial Hazardous Management Facilities and Commercial Medical Waste Management Facilities shall be permitted only in the LM-1 Light Manufacturing Zone subject to the requirements of the LM-1 Light Manufacturing Zone and the provisions of Article 12.

12.08 Building Permit Application Requirements. Application for a building permit shall be accompanied by a site plan indicating method and hours of operation, building and structure location and function, extent and nature of all screening and buffer areas, type and volume of waste materials, proximity to waterways and drainage characteristics, location and type of surrounding land use. The chief building official, if required, shall submit additional information, upon request.

12.09 Severability. If any provision of these zoning regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to that end the provisions of these zoning regulations are declared to be severable.

Article 13. Effective Date

Article 13. Effective Date

13.01 Effective Date. This Ordinance shall become effective from the date of passage by the Town of Walden Board of Mayor and Aldermen.