

# **ZONING ORDINANCE**

## **NIOTA, TENNESSEE**

**PREPARED AND RECOMMENDED BY THE NIOTA  
MUNICIPAL PLANNING COMMISSION:**

**February 3, 2015**

**ADOPTED BY THE NIOTA CITY COMMISSION:**

**May 11, 2015**

<b>Amendments</b>	<b>Date</b>
Added R-2 Medium Density Residential District	9-22-22
Regulations for Patio Homes/Townhouses	9-22-22
Adding uses in Agricultural District	12-12-22
Regulations for Planned Unit Developments	1-9-23

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**ZONING ORDINANCE**  
**OF THE CITY OF NIOTA, TENNESSEE**

**ARTICLE 1. INTRODUCTION**

**1.01 AUTHORITY**

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED IN SECTIONS 13-7-201 THROUGH 13-7-210, **TENNESSEE CODE ANNOTATED**, TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF NIOTA, TENNESSEE; TO REGULATE WITHIN SUCH DISTRICTS THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT OCCUPANCY, THE SIZE OF OPEN SPACES, THE DENSITY OF POPULATION AND THE USES OF LAND, BUILDINGS AND STRUCTURES: TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSION OF THE CITY OF NIOTA, TENNESSEE, AS FOLLOWS:

**1.02 TITLE**

This ordinance shall be known as the "Municipal Zoning Ordinance of the City of Niota" dated May 11, 2015. The map herein referred to as the "Municipal Zoning Map of Niota, Tennessee," dated May 11, 2015, and all explanatory matter thereon is hereby adopted and made a part of this ordinance.

**1.03 PURPOSE**

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fires, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration among other things as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

#### **1.04 ENACTMENT**

Except as hereinafter provided, no building shall be erected or structurally altered, nor shall any building or premises be utilized for any purpose, other than permitted in the zoning district in which the building or premises is located. No land or lot area shall be so reduced or diminished that the yards or open spaces shall be smaller than prescribed herein, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located. No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

## ARTICLE 2

### DEFINITIONS

Unless otherwise stated, the following words shall for the purpose of this ordinance have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural, and the plural, the singular. The word "shall" is mandatory, not directory.

**Access.** The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

**Accessory Building.** A subordinate building, the use of which is incidental to that of a main building and located upon the same lot therewith.

**Accessory Use.** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

**Adult.** Any person eighteen (18) years of age or older.

**Adult-Oriented Establishments.** Sexually explicit establishments which cater to an exclusively or predominantly adult clientele, including but not limited to: adult bookstores, adult motion picture theaters, adult mini-motion picture and video establishments, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, videos, or other visual media, as defined in *TCA § 7-51-1102* and *TCA § 7-51-1401*, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. It also includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, or any other term of like import as well as other enterprises which regularly feature materials, acts or displays involving complete nudity, specified sexual activities, or exposure of specified anatomical areas:

1. Specified anatomical areas including less than completely and opaquely covered:
  - a. Human genitals and pubic region
  - b. Buttocks
  - c. Female breast below a point immediately above the top of the areola; and
  - d. Human male genitals in a discernibly turgid state; and/or sexual excitement or enticement.
2. Specified sexual activities include:

- a. Human genitals in a state of sexual stimulation or arousal
- b. Acts of human masturbation, sexual intercourse or sodomy
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts

**Advertising.** Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures, or on buildings, structures, milestones, signboards, billboards, wallboard, roof board, frames, supports, fences, or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

**Alley.** A public or legally established thoroughfare, other than a street, which affords a secondary means of access to abutting property.

**Automobile Service Station.** Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, compressed natural gas, oil (but not butane or propane fuels), or automobile accessories, the location of electric charging stations and incidental services including facilities for lubricating, car washing and cleaning or otherwise servicing automobiles, but not including painting or major repair.

**Automobile Wrecking, Junk, and Salvage Yards.**

Any open or uncovered land where three or more motor vehicles not in running condition, or the parts thereof, are stored in the open and are sold or dismantled; or any place where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles.

**Average Ground Elevation.** The elevation of the mean finished grade at the front of a structure.

**Basement.** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevation. When used for commercial activities, a basement shall be counted as a story.

**Board.** Niota Board of Zoning Appeals.

**Body Piercing.** The piercing of any part of the body for compensation by someone, other than a physician licensed under TCA Title 63, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non-medical purposes; body piercing includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun.

**Building.** Any structure having a roof supported by columns or walls, including tents, lunch wagons, dining cars, mobile homes, both single, double-wide, and/or modular homes, and similar structures whether stationary or movable.

**Building Inspector.** The Niota Building Inspector or his/her authorized representative appointed by the Niota Board of Mayor and Commissioners.

**Building, Main, or Principal.** A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is situated.

**Building Setback Line.** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

**Buffer Strip.** A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart within the row and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet. Alternatively, existing vegetation may serve as a buffer strip.

**Camping Ground.** A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, movable or temporary dwellings, rooms, or sleeping quarters of any kind.

**Commercial Feed Lot.** Any plot of land on which livestock are fed or fattened for market utilizing food products not grown on site.

**Country Club.** A chartered, non-profit membership club, with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, riding, clubhouse, pool, dining facilities, cocktail lounge.

**Coverage.** The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

**Day Nursery.** Any place, home, or institution which receives six (6) or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and construction.

**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, excavation or drilling operations.

**District.** Any section or sections of Niota, Tennessee, for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.

**Dwelling.** A house, mobile home, apartment building, boarding house, tourist home, or other structure designed or used primarily for human habitation. For the purpose of this ordinance the word "dwelling" shall not include a travel trailer, hotel, motel, or tourist court.



1. **Apartment.** A housing structure containing four (4) or more separate dwelling units.
2. **Dwelling Unit.** That area in a dwelling structure designed and constructed for the occupancy of one family.
3. **Group Housing Development.** Two (2) or more dwellings located on the same tract in one ownership and constructed as a planned development.
4. **Mobile Home or House Trailer.** A detached residential dwelling designed for transient use when utilized with a motor vehicle, and considered as a permanent dwelling when all sanitary and utility connections are in place.
5. **Mobile Home Park.** A place or tract of land upon which two (2) or more homes, occupied for dwelling or sleeping purposes are located.

**Electric Vehicle Charging Station.** A public or private parking space located together with battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. A restricted electric vehicle charging station is privately or publicly owned and available to the public.

**Family.** One or more persons related by blood, marriage, or adoption, or a group of not to exceed five (5) persons not all related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a board or lodging house, hotel, club, or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

**Flea Market.** Any premises, open air or under roof, where the principle use is the occasional or periodic sale of new and used household goods, clothing and apparel, personal effects, tools, works of art or craft, small household appliances and similar merchandise, objects, or equipment in small quantities, broken lots or parcels, but not in bulk, for use or consumption by the immediate purchaser. Sales of prepared foods for immediate consumption or home baked goods may be allowed. This shall not include sidewalk sales, and occasional yard sales and charity sales held on the owner or sponsor's premises or on a public sidewalk immediately adjacent to said premises.

**Frontage.** The width of the property measured along the dedicated and publicly accepted street right-of-way.

**Game.** Any amusement machine, video or device operated by means of insertion of coins, tokens, prepaid card, or similar object or pool or billiard tables for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines that do not incorporate gaming or amusement features or any coin operated mechanical or electrical musical device.

**Game Room.** Any place where three (3) or more games are displayed for use by the public and fees from the use or play, whether or not another business is conducted on the premises.

**Grade, Finished.** The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**Health Department.** The McMinn County Health Department to include any representatives of the Tennessee Department of Environment and Conservation (TDEC).

**Height of Building.** The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

**Home Occupation.** A lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling provided that the space used is incidental to residential use.

**Loading Space.** A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of a vehicle.

**Lot.** A piece, parcel or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under this ordinance.

**Lot Area.** The total surface area land included within lot lines.

**Lot Corner.** A lot of which at least two adjoining sides abut their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

**Lot Depth.** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**Lot Frontage.** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

**Lot, Interior.** A lot other than a corner lot.

**Lot, Lines.** The boundary dividing a given lot from the street, an alley or adjacent lots.

**Lot Width.** The width of a lot at the building setback line measured at right angles to its depth.

**Manufactured Home.** A structure, transportable in two (2) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) feet or more in length, 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 conditioning, and electrical systems contained therein. A manufactured home for the purpose of the Ordinance does not include a manufactured unit to be used in conjunction with a commercial or industrial activity.

**Medical Facilities.**

1. **Convalescent, Rest, or Nursing Home.** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

2. **Dental Clinic or Medical Clinic.** A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions.
3. **Hospital.** An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities and staff offices which are an integral part of the facility.
4. **Public Health Center.** A facility primarily utilized by a health unit for the provision of public health services.

**Minimum Floor Elevation.** The lowest elevation permissible for the construction, erection, or other placement of any floor including a basement floor.

**Mobile Home (Trailer).** A detached single family dwelling unit with the following characteristics:

1. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
2. Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.
3. Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection of utilities and the like.

See the Mobile Home Regulations in Chapter 2 of Section 14 of the Niota Municipal Code.

**Mobile Home Park.** A plot of ground within the City of Niota one which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located. See the Mobile Home Ordinance in the Appendices of this document for mobile home park regulations.

**Mobile Home Subdivision.** A subdivision with individual lot ownership planned for mobile homes and which meets all requirements of the Subdivision Regulations of the City of Niota. and the City's Mobile Home Regulations.

**Motor Home.** A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

**Nonconforming Use.** A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated.

**Noxious Matter.** Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions or detrimental effects on the social, economic, or psychological well-being of individuals.

**Off-Premises Sign.** Any sign that advertises or gives direction to any business, product, service, attraction, or any other purpose or interest, other than the industrial, commercial or other business establishment located on the site where the sign is located

**Off-Street Parking Space.** A yard, space, or area off the road right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

**Open Space.** An area on the same lot with a main building which is open, unoccupied and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot.

**Parking Lot.** An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

**Parking Space.** An off-street space available for parking one motor vehicle and having an area of not less than one-hundred and eighty (180) square feet exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

**Patio homes.** A single-family residential dwelling of one or more floors, which does not have any common walls shared with an adjacent unit or units, but which is located to one side of a less than standard width lot. That is, these homes have a "five foot" setback on one side to maximize the amount of usable outdoor lot area on the other side for a patio, landscaped garden, or other outdoor living area. **(added 9/22/2022)**

**Planned Unit Development (PUD).** A single parcel of land which is planned and developed as a single unit which may contain one or more clusters of residential development, commercial development, mixed-use development, shared parking areas and circulation drives, common open spaces, and other amenities. Apartment complexes, resorts, shopping centers, and medical centers which are planned as comprehensive unit and which may require certain dimensional features that vary from those normally allowed are oftentimes developed as a PUD. **(added 9/22/2022)**

**Planning Commission.** The Niota Municipal Planning Commission.

**Plat.** A map, plan, plot, or layout indicating the location and boundaries of individual properties.

**Pool Hall.** Any place where a game or games of billiards, bagatelle, pool or other games played on tables requiring the use of cue and balls. The term does not include any such table in a private residence that is not open for use by the general public.

**Principal Use.** The specific primary purpose for which land or a building is used.

**Public Uses.** Public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

**Recreational Vehicle.** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

**Right-of-Way.** The strip of land over which a public road is built.

**Roadway.** The actual road surface including necessary road shoulders and drainage facilities including ditches, curbing and guttering, which is utilized to transport motor vehicles.

**Sanitary Landfill.** An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the Tennessee Department of Environment and Conservation.

**Sanitary Sewer.** A municipal or community sewerage collection, treatment, and disposal system of a type approved by the Tennessee Department of Environment and Conservation.

**Setback.** The required minimum distance from the street right-of-way line or any other lot line that establishes the area within which a structure must be erected or placed. (For the purposes of this ordinance, setbacks are not applicable to fences.)

**Sign, Billboard, or Other Advertising Device.** Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, town or other political unit.

**Skirting.** Material used to enclose or partially enclose the area under a mobile home (trailer).

**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more of head clearance equals fifty (50) percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered as a story if more than half of its height is above the average ground level from which the "height of building" is measured or if it is used for commercial purposes.

**Street.** Any public or private thoroughfare which affords the principal means of access to abutting property.

**Structure.** Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, and fences.

**Swimming Pool, Outdoor.** Any pool or open tank not located within a completely enclosed building capable of containing water to a depth of greater than one and one-half (1-1/2) feet at any point.

**Tattoo Studio.** Any room or space where tattooing, any method of placing designs, letters, figures, symbols, cosmetics or any other marks under the skin of a person with ink or color by the aid of needles or instruments, is practiced or where the service of tattooing is conducted.

**Telecommunications Structure.** A building, tower, or other structure and equipment used for the transmission, re-transmission, broadcast, or promulgation of telephone, telegraph, radio, television, or other electronic communications signals.

**Townhouses.** A single-family residential dwelling of one or more floors, having or appearing to have a common wall with an adjacent similar unit or units. The ownership of a townhouse shall include the walls inward and the ground underneath to include the front and rear yard, end units shall have one side yard, interior units shall be to the common walls. **(added 9/22/2022)**

**Toxic Materials.** Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

**Travel Trailer.** A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

1. Can operate independent of to external sewer, water, or electrical connections;
2. Contains water storage facilities and may contain a lavatory, kitchen sink and/or bathroom facilities; and/or
3. Is identified by the manufacturer as a travel trailer.

See the Mobile Home Ordinance in city code for travel trailer regulations.

**Travel Trailer Park.** Any plot of ground within the City of Niota on which two (2) or more travel trailers, occupied for camping of persons of short stay, are located. See the Mobile Home Ordinance in the city code for regulations regarding travel trailer parks.

**Truck Camper.** A structure either factory-built or homemade which fits into the bed of a truck (usually a pickup truck) and designed to provide temporary living quarters for recreational, camping, or travel use.

**Usable Floor Space.** Floor space used for retail sale or display; includes permanent outdoor sales, but excludes outdoor motor vehicle sales areas.

**Use.** The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

**Yard, Front.** The required open space, unoccupied by buildings, between the road or street right-of-way line and the principal building.

**Yard, Rear.** The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

**Yard, Side.** The required space unoccupied except as herein provided measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

**ARTICLE 3**

**ESTABLISHMENT OF DISTRICTS**

**3.01 CLASSIFICATION OF DISTRICTS**

For the purpose of this ordinance, Niota, Tennessee is hereby divided into five (5) districts designated as follows:

<u>DISTRICT ABBREVIATION</u>	<u>ZONING DISTRICT</u>
R-1.....	Residential District
R-2.....	Medium Density Residential District
AG.....	Agricultural District
C-1.....	Central Business District
C-2.....	General Commercial District
I-1.....	General Industrial District

**3.02 PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS**

For flood hazard and floodway district boundaries see the Federal Emergency Management Agency’s Flood Insurance Rate Maps (FIRMs) for the city. For regulations governing the flood hazard areas see the adopted Municipal Flood Damage Prevention Ordinance, Ordinance No. 6-11-12.

**3.03 ZONING DISTRICT MAP**

The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map entitled, Zoning Map of Niota, Tennessee. The zoning map or zoning map amendment shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment. Certified copies of the adopted zoning map or zoning map amendment shall be maintained in city hall and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

**3.04 BOUNDARIES OF DISTRICTS**

1. Unless otherwise indicated on the zoning map, the boundaries are lot lines, the centerlines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of this ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.
2. Where a district boundary divides a lot, as existing at the time this ordinance takes effect and the major portion of said lot is in the less restricted district, the regulations relative to that district may be extended twenty (20) feet into the more restricted district within said lot.



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Where property on one side of a street between two intersecting streets is in a business or industrial district and the property on the intersecting street, except the corner or corners, is in a residential district, the business or industrial use shall be limited to the property facing or fronting the street zoned for business throughout the block and any property in the rear thereof facing or fronting the intersecting, even though it appears to be in a business or industrial district, shall be governed by the use prevailing on the intersecting street. It is the purpose of this ordinance to limit business and industrial uses to the property facing or fronting the street zoned for business or industrial and to forbid business or industrial uses facing or fronting the street zoned for residential uses. In all cases of ambiguity due to the actual layout of the property or other circumstances, the Board of Zoning Appeals shall have the authority to determine on which street the business or industrial use shall face or front so that the spirit of the ordinance shall be observed.

## ARTICLE 4

### GENERAL PROVISIONS APPLYING TO ALL DISTRICTS

For the purpose of this ordinance there shall be certain general provisions which shall apply to all districts as follows:

#### **4.01 ZONING AFFECTS EVERY BUILDING AND USE**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation. No building or structure, whether conforming or non-conforming, shall be changed, expanded, or any way altered except in conformance with all provisions of this ordinance.

#### **4.02 ONE PRINCIPAL STRUCTURE FOR EACH LOT**

Only one (1) principal building and its customary accessory buildings may be erected on any lot unless otherwise authorized by this ordinance.

#### **4.03 REDUCTION IN LOT AREA PROHIBITED**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

#### **4.04 REQUIRED YARD CANNOT BE USED BY ANOTHER BUILDING**

No part of a yard or other open space required about any building for the purpose of complying with the provisions of these regulations shall be included as a part of a yard or other open space required under these regulations for another building.

#### **4.05 REAR YARD ABUTTING A PUBLIC STREET**

When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line, centerline of the street, or property line as required for adjacent properties which front on that street.

#### **4.06 OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED.**

On a corner lot in any district, within the area formed by the centerlines of the intersecting or intercepting streets and a line joining points on such centerlines at a distance of ninety (90) feet from their intersection, there shall be no obstruction to vision between a height of two and one-half (2-1/2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

#### 4.07 **OFF-STREET PARKING REQUIREMENTS**

1. **Amount Required.** There shall be provided, at the time of erection of any building or structure, or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking space of at least one hundred and eighty (180) square feet per space with vehicular access to a street or alley for the specific uses as set forth below. For lots with no access to either a public or private alley, the city reserves the right to control ingress and egress over private right-of-way. Off-street parking space shall be deemed to be required open space associated with the permitted use and shall not hereafter be reduced or encroached upon in any manner.
  - a. **Dwelling.** Not less than one (1) space for each single family dwelling; and not less than one and one-half (1-1/2) spaces for each unit in multi-family dwellings and apartments.
  - b. **Boarding Houses, Rooming Houses.** Not less than one (1) space for each room or unit occupied by boarders or roomers.
  - c. **Tourist Accommodations, Hotels, or Motels.** Not less than one (1) space for each room or unit offered for tourist accommodations.
  - d. **Office Buildings, Manufacturing or Other Industrial Building or Use.** Not less than one (1) space for every two (2) persons employed computed on the basis of total number of employees on the two largest consecutive shifts. In addition, there shall be provided vehicle storage or standing space for all vehicles used directly in the conduct of such office or industrial use.
  - e. **Retail Uses.** One space for each one hundred and fifty (150) square feet of usable floor space in the General Commercial District (C-2) plus one (1) space for every two (2) employees.
  - f. **Theaters, Auditoriums, Stadiums, Churches or Other Use Designed to Draw an Assembly of Persons.** Not less than one (1) space for every five (5) seats provided in such place of assembly.
  - g. **Public Building.** Not less than one (1) space for each one hundred and fifty (150) square feet of total floor area of all floors in building.
  - h. **Medical Offices.** Three (3) patient's parking spaces per staff doctor, plus two (2) spaces per three (3) employees, plus one (1) space per staff doctor.
  - i. **Funeral Homes.** One (1) space for each company vehicle plus one (1) space for each four (4) seats in meeting room.
  - j. **Service Stations.** Five (5) spaces for each grease rack or similar facility, plus one (1) space for each automobile pump.

- k. **Offices.** One (1) space for each one hundred and fifty (150) square feet of office space.
- l. **Restaurants.** One (1) space per one hundred and fifty (150) square feet of usable floor area in General Commercial District (C-2), plus one (1) space for each two (2) employees.
- 2. **Combination of Parking Space.** Parking space maintained in connection with an existing and continuing main building or structure on the effective date of this ordinance up to the number required by this ordinance shall be continued and may not be counted as serving a new structure or addition; nor may any parking space be substituted for a loading space, nor any loading space substituted for a parking space.
- 3. **Remote Parking Space.** If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- 4. **Requirements for Design of Parking Lots.**
  - a. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
  - b. Each parking space shall be no less than one-hundred and eighty (180) square feet.
  - c. The parking lot shall be drained to eliminate surface water. Use of permeable and pervious pavers and other low impact development techniques for stormwater management are encouraged.
  - D. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 4.09.

#### **4.08 OFF-STREET LOADING AND UNLOADING SPACE**

Every building or structure used for business or trade shall provide adequate space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or if there is no alley, to a public street.

#### **4.09 ACCESS CONTROL**

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

1. A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty –five (35) feet in width at the property line.
2. There shall be no more than one (1) point of access to any one (1) public street on a lot with a width of less than two hundred (200) feet. Lots with a width between two hundred (200) feet and five hundred (500) feet may have two (2) points of access provided there is at least seventy-five (75) feet of separation between each access point. Lots over five hundred (500) feet in width may have more than two (2) points of access provided that there is at least one hundred (100) feet of separation between each access point.
3. No point of access shall be allowed within twenty (20) feet of the right-of-way of any public street intersection.
4. Where sidewalks exist, the area existing between the street and an interior parking space or driveway parallel to the street shall have a curb at least six (6) inches in height and six (6) inches in width separating the parking area from the sidewalk to prevent encroachment of vehicles onto the sidewalk area.
5. No curbs on city streets or rights-of-way shall be cut or altered without written approval of the city.
6. Access control on property abutting state or federal highways shall be governed by official regulations of the Tennessee Department of Transportation or the provisions of this ordinance whichever is higher.

#### **4.10 ROAD FRONTAGE REQUIREMENTS**

All residential uses must front on a public street for a distance of at least thirty-five (35) feet. No building permit shall be issued and no building shall be erected on any lot without access to a public road pursuant to TCA § 13-4-308.

#### **4.11 CUSTOMARY HOME OCCUPATIONS**

A customary home occupation is a gainful occupation or profession conducted by members of a family residing in the premises and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the building, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. Likewise, no additional traffic shall be generated by the home occupation. When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the above restrictions and is compatible with the district in which said home occupation is located.

#### **4.12 CORNER LOTS**

The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces.

#### **4.13 GROUP HOUSING PROJECTS**

A group housing project of two (2) or more buildings to be constructed on a plot of land of at least two (2) acres not subdivided into customary streets and lots, and which will not be so subdivided, may be constructed provided:

1. It is located within five hundred (500) feet of a collector or arterial as defined by the Niota Major Road Plan.
2. Off-street automobile parking space requirements for the proposed uses are provided on the lot; and
3. Where the project abuts a residential district, there shall be a ten (10) foot planted evergreen buffer strip along the rear and side lot lines adjacent to the residential district.

#### **4.14 PLANNED SHOPPING CENTERS**

A planned shopping center consisting of one (1) or more buildings to be constructed on a plot of land not subdivided into customary streets and lots may be constructed provided:

1. It is located with primary frontage on an arterial street as defined by the Niota Major Road Plan.
2. Off-street automobile parking space requirements for the proposed uses are provided on the lot; and
3. Where the project abuts a residential district, there shall be a ten (10) foot planted evergreen buffer strip along the rear and side lot lines adjacent to the residential district.

#### **4.15 ACCESSORY USE REGULATIONS**

The uses of land, buildings and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot.
2. Be subordinate to and serve such principal use.
3. Be subordinate in area, intent, and purpose to such principal use.
4. Contribute to the comfort, convenience, or necessity of uses of such principal use.
5. In a residential district no accessory use is permitted in the front yard, and any accessory use shall be not less than five (5) feet from any property line.

6. Exterior Electric Vehicle Charging Stations are allowed as accessory uses in all commercial and industrial zoning districts.

#### **4.16 TEMPORARY USE REGULATIONS.**

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the Zoning Officer. Said application shall contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary uses and shall be subject to the specific regulations and time limits which follow and the regulations of any district in which such use is located.

1. **Carnival or Circus:** May obtain a Temporary Use Permit in the C-2 or I-1 district; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. **Christmas Tree Sale:** May obtain a 30-day Temporary Use Permit for the display of trees on open lots in a C-1, C-2 or I-1 district.
3. **Temporary Buildings:** In any district, a Temporary Use Permit may be issued for a contractor's temporary office, and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project or upon expiration of the Temporary Use Permit, whichever occurs sooner.
4. **Real Estate Sales Office:** In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision. Such offices shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six-month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.
5. **Religious Tent Meetings:** In the C-1, C-2, and I-1 districts, a Temporary Use Permit shall be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period.
6. **Seasonal Sale of Farm Produce:** In any district except the R-1 Residential District, a Temporary Use Permit may be issued for the sale of farm produce grown on the premises. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five-month period. All structures must be set back from the roadway a minimum of twenty-five (25) feet.
7. **Temporary Dwelling Units in Cases of Medical Hardship:** In any residential district, a Temporary Use Permit may be issued for a period not to exceed one (1)-year, renewable on request, to place a mobile home (double-wides excluded) on a lot which already contains a residential structure. The purpose of such temporary placement shall be to make it possible for a resident of either structure to provide necessary medical and housekeeping

assistance to a resident of the other structure as required by their physical or mental disability. And provided further that such a temporary structure does not represent a hazard to the safety, health, or welfare of the community. An applicant for a temporary use permit as provided under this subsection must produce a written statement from a physician certifying that the specific disability requires assistance from someone in close proximity, as evidence of such disability. The applicant must also provide the commission with either a) a written statement from the McMinn County Health Department approving the sewage disposal system of the proposed temporary structure or b) a statement from the City recorder that public sewer is available to the proposed temporary structure. Said temporary mobile home shall be removed within forty-five (45) days following expiration or revocation of this permit.

8. **Miscellaneous Assemblies:** In the C-1, C-2, and I-1 Districts, a Temporary Use Permit may be issued for any assembly such as an outdoor music concert, political rally, etc. Such permit shall be issued for not more than a seven (7) day period. Noise levels shall be considered when deciding whether to issue the Temporary Use Permit near residences.

#### **4.17 AUTOMOBILE SERVICE STATION RESTRICTIONS.**

The following regulations shall apply to all automobile service stations:

1. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.
2. Fueling pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.
3. Any above ground storage tank of fuel shall be enclosed with screening to consist of a solid fence of a height at least six inches higher than the height of the storage device.
4. All storage tanks whether or above ground or below ground, must comply with applicable regulations from the Tennessee Department of Environment and Conservation and the Environmental Protection Agency.

#### **4.18 SWIMMING POOL RESTRICTIONS.**

The following regulations shall apply to all swimming pools:

1. Private and public swimming pools are permitted in the R-1 and C-2 districts.
2. No swimming pool or part thereof, excluding aprons and walks, shall protrude into any required front yard in the Residential Zoning District
3. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall be maintained in good condition and not be less than four (4) feet in height.



#### **4.19 DEVELOPMENT STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS.**

Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics. Automobile wrecking, junk and salvage yards shall also comply with Section 13-201 to Section 13-209 of the Niota Municipal Code. As stated in Section 10.13 of this ordinance, when a conflict between regulations occurs, the more restrictive requirement shall apply.

1. **General Standards for Evaluation.**

- a. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- b. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.
- c. All outdoor storage of salvage and wrecking operations shall be conducted entirely within a screened area as regulated in Title 13, Sections 203-205 of the Niota Municipal Code.
- d. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.
- e. All such yards situated on any state route or highway shall meet all Tennessee Department of Transportation standards.

2. **Off-Street Parking.** As regulated in Article 4, Section 4.07 of this ordinance.

3. **Ingress and Egress.** The number of vehicle access driveways permitted on any single street frontage shall be limited to:

- a. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
- b. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet.

Driveways used for ingress and egress shall be limited to thirty (30) feet in width maximum, exclusive of curb returns.

4. Except for non-conforming yards, no automobile wrecking junk, or salvage yard shall be permitted within three hundred (300) feet of any public road in Niota, except where a more stringent state or federal law applies.
5. **Application for Automobile Wrecking, Junk, or Salvage Yard Permit.** No person shall own or maintain an automobile wrecking, junk, or salvage yard within Niota until he/she has secured a permit from the Niota Planning Commission. An application for said permit shall be filed in accordance with Article 10, Section 10.06 of this ordinance and shall be accompanied by a detailed site plan, a schedule for construction, and any other information herein required. Said application shall be processed in the following manner:
  - a. The written application, plans, schedules and a statement of approval of the site percolation and drainage characteristics from the McMinn County Health Department shall be submitted to the Niota Municipal Planning Commission.
  - b. The Niota Planning Commission shall grant final approval or disapproval of the permit after reviewing the application materials.

#### **4.20 DEVELOPMENT STANDARDS FOR CEMETERIES.**

1. The following standards shall be imposed upon the development and construction of cemeteries in Niota.
  - a. The site proposed for a cemetery shall not interfere with the development of a system of collector and arterial streets in the vicinity of such site. In addition, the site shall have direct access to a thoroughfare.
  - b. Any new public cemetery shall be located on a site containing not less than fifteen (15) acres.
  - c. All structures, including but not limited to mausoleums, permanent monuments, or maintenance buildings, shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line.
  - d. All graves of burial lots shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line.
  - e. All required yards shall be landscaped and maintained.
2. **Application for Cemetery Permit.** No person shall develop, construct, or maintain a cemetery in Niota until he/she has secured a permit from the Niota Planning Commission. An application for said permit shall be filed in accordance with Article 10, Section 10.06 of this ordinance, and shall be accompanied by a detailed site plan, a schedule for construction and other information herein required. Said application shall be processed in the following manner.

- a. The written application, plans, schedules, and other written information, as herein required, shall be submitted to the Niota Municipal Planning Commission.
- b. The Niota Planning Commission shall grant final approval or disapproval of the permit after reviewing the application materials.

#### **4.21 SITE PLAN REQUIREMENTS**

Purpose: The purpose of these regulations is to ensure the appropriate adherence to the City of Niota Zoning Ordinance.. A site plan is required to show how development will impact the property on which it is proposed, its impact on adjacent land and property owners as well as the development's impact on the internal and external transportation system. The Planning Commission will review all site plans to ensure proper adherence to the Zoning Ordinance and the impact on the aforementioned areas.

Furthermore, the Zoning Officer shall inspect all development before and during construction for compliance with all regulations. Per the request of the Zoning Officer, the Mayor, Planning Commission or planning staff, additional components of a site plan may be required for submission to the Planning Commission for review. Before the beginning of any construction, it is highly recommended that a developer consult with the appropriate city officials. A developer will not be required to submit additional elements of a site plan following approval by the Planning Commission.

All development in a C-1, C-2, and I-1 zones are required to submit a site plan pursuant to these regulations. No permit shall be issued to erect or alter any building or structure until a site plan has been submitted and approved in accordance with the provisions of this chapter. These requirements cover the development of all new structures whether primary, accessory, or an addition to a current structure as defined in Article II of this ordinance.

##### **1. General Standards**

All site plans shall show the following:

- a. Name of the development and address.
- b. Name, address and phone number for the owner of record and the applicant.
- c. Name, address, and phone number for the preparer of the site plan.
- d. Present zoning of the site and abutting property.
- e. Date, scale, and north point.
- f. Total land area for the lot.

##### **2. New development**

In addition to the requirements listed in section 1, the site plan shall show the location and dimensions of the following when existing and the location, dimensions, size, and height of the following when proposed:

- a. Sidewalks, streets, alleys, easements, and utilities
- b. Buildings and Structures
- c. Fire hydrants
- d. Driveways, entrances, exits, and parking areas
- e. Number and size of parking spaces
- d. Number and size of loading spaces
- e. Square feet of floor space
- f. Adequate facilities for trash collection and disposal
- h. Existing and proposed easements
- i. Location, character, size, and height of signs
- j. All natural and artificial watercourses, if any
- k. Other items which the Planning Commission, zoning officer, or planning staff may require upon review

**3. Accessory structure and/or additions below 1,000 Square Feet Building Area**

- a. Drawing showing the location of the accessory structure or addition
- b. Drawing of the current location of any structures on site
- c. List square feet of building space for accessory or addition
- d. Show location of sidewalks, streets, alleys, easements, and utilities.
- e. The Planning Commission, City Recorder, or Zoning Officer may require additional items if deemed necessary.

**4. Accessory structure and/or additions above 1,000 Square Feet Building Area**

An accessory structure and/or additions to the primary structure on a property are required to submit a site plan showing the following:

- a. All requirements specified in section 2 for new development total building area.

## **5. Site Plan Submission Procedure**

The owner or developer shall submit three (3) copies, or as many as may be required by the Planning Commission, of his/her proposed site plan to the Planning Commission no later than two weeks prior to the next regular meeting of the Planning Commission. The Planning Commission shall consider the site plan based on the provisions of the Zoning Ordinance and approve or disapprove same as required; the plans then shall be returned to the owner or his/her agent with the date of such approval or disapproval noted thereon over the signature of the secretary of the Planning Commission. One (1) copy of the approved plan shall be retained by the Planning Commission. Approval of a site plan constitutes approval of a final development plan and initiates the vesting period for development standards as described in TCA § 13-4-310. The vesting period begins on the date of the Planning Commission meeting at which the site plan is approved.

## **6. Appeal procedure**

Upon appeal to the Planning Commission, one or more of these requirements may be waived if it is determined that it would place both an undue *and* unnecessary burden on the developer. In such a scenario the burden of proof is on the applicant to demonstrate to the Planning Commission why the requirement should be waived. The applicant must demonstrate how compliance to these regulations will be still be met. The process for seeking waiver of site plan requirements shall be:

1. Submit a request for a site plan requirement waiver with all supporting documentation two (2) weeks prior to the Planning Commission meeting in which the applicant wishes for the appeal to be heard.
2. The Planning Commission will meet on the appeal at the next regularly scheduled meeting.
3. The applicant will have the opportunity to address the Planning Commission and answer questions.
4. A majority vote of the Planning Commission shall approve or deny the waiver of the site plan requirement

At no time will the Planning Commission waive the requirement for a site plan or drawing of the proposed development. Only specific components may be waived.

## **4.22 TELECOMMUNICATIONS STRUCTURES**

1. The purpose of these regulations is to (1) protect residential areas and land uses from potential adverse impacts of telecommunications structures; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers in the city by encouraging the joint use of telecommunications structures; (4) minimize visual pollution through careful design, siting, screening and camouflaging of towers; and (5) to minimize potential damage to adjacent properties.

2. **Use on Review.** Construction and operation of a telecommunications structure in any zoning district shall be considered a “use on review” by the Planning Commission as regulated in Section 10.06. The commission shall ensure compliance with the standards of this section prior to granting a special use permit allowing such a structure. Factors to be considered in granting the permit include, but are not limited to: (1) height of the proposed structure, (2) proximity to residential structures, (3) nature of land uses, topography, and foliage on adjacent and nearby properties (4) design of the tower and especially design characteristics reducing visual obtrusiveness, (5) proposed ingress and egress, and (6) availability of shared use, co-location or alternative technologies not requiring use of towers.
3. **Public Hearing.** A public hearing shall be conducted by the Planning Commission at the meeting in which the application for the telecommunications structure is presented. The hearing shall be advertised at least fifteen (15) days in advance of the meeting in a newspaper of general circulation in the city. All adjacent property owners to the parcel for the proposed tower shall be mailed letters informing them of the date, time and location of the public hearing.
4. **Shared Use.** The applicant shall submit documentation the applicant has attempted to obtain shared use of an existing or planned telecommunications structure(s) in the City or McMinn County and that such shared use has been denied. Shared use is not precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed telecommunications structure(s) for shared use. The Planning Commission may consider expert opinion on the reasonableness of fees and modifications costs as well as documentation that shared use is not applicable for the service area. Shared costs exceeding the cost of new tower development shall be presumed to be unreasonable. Shared use of existing telecommunications structures may be technically impractical where supported by technical documentation from a licensed professional independent of the applicant. The applicant shall provide the Planning Commission a list of all telecommunications structures’ owners contacted, the date of such contact, the form and content of said contact and the results of said contacts.
5. **Buffering and Landscaping.** Ground structures and buildings shall have special care to minimize the effects on adjacent areas. All ground structures shall be buffered with a minimum of an eight-(8) foot wide landscaped strip around the perimeter of the security fencing. The buffered strip shall consist of a combination of trees, shrubs, vines or other ground covers that blends and enhances the appearance of the ground structures within the buffered area. The buffer shall be installed for permanent year-round protection of adjacent property by visually shielding internal structures from adjoining property, to a height of eight (8) feet or the height of the proposed accessory structures, whichever, is greater. Shrubs shall also be planted and maintained around any guy anchor for visual screening purposes. The landscaping provisions of this section may be varied or reduced by the Planning Commission if (1) the proposed plan provides for unique and innovative landscaping treatment or physical features, that meet the intent and purpose of this section, or (2) the location is in a well-forested area or shielded by topography from adjoining properties and public streets. Retention of existing vegetation may be considered adequate buffering.

6. **Co-location.** The co-location of towers and antennas shall be permitted only on existing and proposed telecommunications structures or on power line structures and water towers over thirty-five (35) feet in height. Where antennas or telecommunications structures are to be co-located on an existing power line structure or water tower, the maximum height shall not exceed the height of said structure plus twenty (20) feet.
7. **Aesthetics.** Towers shall have either a galvanized steel finish or, subject to any Federal Aviation Administration regulations, be painted a neutral color so as reduce obtrusiveness. The tower site, the design of the buildings and related structures shall to the greatest extent possible, use materials, colors, textures, screening and landscaping that will break up the outline of the structure and blend the structure(s) into the setting, to make it as visually unobtrusive as possible.
8. **Fee.** A non-refundable fee of one hundred dollars (\$100) shall accompany any application for a new telecommunications structure.
9. **Security.** Towers and associated ground structures shall be enclosed by security fencing not less than six (6) feet in height, equipped with an appropriate anti-climbing device(s). Climb-proof shields may be substituted for a security fence around guy anchors.
10. **Separation Distance.** A telecommunications structure shall be separated from another communications structure by a distance of not less than 300 percent (%) of the height of the tower.
11. **Setbacks.** All towers and accessory structures shall be setback from the property lines a distance as required by the zoning resolution for that district or a distance equal to twenty (20) percent of the tower height, between the base of the telecommunications structure and the property line, whichever is greater. Provided however, that (1) no tower may be located closer than 1,000 feet from an existing residence, except when topography or other physical features as may be determined by the Planning Commission, the commission may reduced this distance, or (2) when a tower is constructed adjacent to an area zoned residential, a place of public assembly, or a public road, the minimum distance between the tower and said residence or road shall be equal to one hundred (100) percent of the tower height plus ten (10) feet. Guy anchors shall meet the setback requirements of the district in which the tower is located.
12. **Site Plan.** The applicant shall submit with an application for a special use permit, a site plan containing the information required in Section 4.22 above and, except for a structure co-located on an existing tower, power line or water tower; the following additional data:
  - a. Be drawn by a surveyor or licensed professional engineer to a scale of 1-inch = 100 feet or larger.
  - b. A letter from a professional engineer certifying the height of the tower and the structure meets all the standards prescribed in latest edition of the Southern Standard Building Code, the Electronic Industries Association, and any applicable standards and regulations of the Federal Aviation Administration and the Federal

Communication Commission; and describing the tower's capacity including the number and type of antennas that can be accommodated.

- c. A letter of intent from the owner, binding successive owners, allowing for the shared use of the tower.
  - d. Setbacks, distance to the nearest residence(s), and distance to the nearest telecommunications structure and the owner of said tower.
  - e. Landscaping and security plan.
  - f. Nature of uses on adjacent properties, topography and surrounding tree coverage and foliage.
  - g. Show type and height of the proposed tower with aesthetic design factors.
  - h. Any other data required by this section.
13. **Exceptions.** The provisions of this part shall not apply to antennas or towers under 40-feet in height, or antennas or towers for use by state and local government and cooperative utility districts located by public buildings or co-located on public buildings or water towers. Pre-existing towers shall be allowed continue their use as they presently exist, however, new construction or expansion of a pre-existing telecommunications structure shall comply with this ordinance.
14. **Signs.** No signs shall be allowed on a telecommunications structure.

15. **Removal of Obsolete Towers**

- a. Any tower that is no long in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the City of Niota with a copy of the notice of intent to the Federal Communications Commission (FCC) to cease operations and shall be given ninety-(90) days from the date that operations cease to remove the obsolete tower and accessory structure(s). Provided that if another operator submits a request for a telecommunications structure during this time period, a reasonable period of time may be granted to negotiate the sale of said tower to a new operator. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.
- b. Prior to the issuance of a permit for any tower, co-use of any tower or co-use of any utility structure, a surety instrument (e.g. letter of credit or bond), shall be provided by the applicant, to ensure prompt removal of the tower after operation of the tower has ceased. The amount of the surety shall be determined by the Planning Commission in the site plan review process.



#### **4.23 REGULATIONS FOR PATIO HOMES (added 9/22/2022)**

##### **1. Subdivision Plat Approval Procedure for Patio Home Construction:**

To ensure that each building is built within the proper area of its lot, these regulations shall be followed:

- a. Prepare a site plan and a preliminary subdivision plat for the proposed patio home development. The site plan among other requirements must indicate with a separate line the portion of each lot on which the patio houses must be built and which lot line will have a zero foot setback.
- b. After approval of the site plan, the normal subdivision review process for preliminary and final plats must be followed. The final plat will also show the buildable lot area for each lot, so that the building inspector will know if a future house plan for one of these lots complies with the intent of the approved site plan.

##### **2. Area and Dimensional Requirements for Patio Homes:**

All patio homes within Niota shall conform to the following measurements:

- a. **Minimum Lot Width:** Fifty (50) feet
- b. **Minimum Lot Area:** 5,000 Sq. feet Patio Home + 3,000 common conservation-8,000 total area per unit
- c. **Minimum Public Street Frontage:** Fifty (50) feet
- d. **Minimum Lot Depth:** One-hundred (100) feet
- e. **Minimum Building Line Setbacks:**

Front: 20 ft. from interior street right-of-way and 30 ft. from both streets on corner lots

Side: Five (5) feet on one side and fifteen (15) feet on the other and 15 feet from any non-patio home lot.

Rear: Fifteen (15) feet

##### **Accessory Structures:**

Front: Accessory structures are prohibited in the front and side yards and front and side setbacks of the property.

Rear: Ten (10) feet

- f. **Required Off-Street Parking:** Two spaces (10 feet by 20 feet in size) shall be provided for each dwelling unit. These spaces shall be located entirely upon the lot and shall be directly accessible from the public street right-of-way.
- g. **Maximum Density:** Five (5) units per Acre

All remaining acreage, in certain districts, has to be placed in permanent conservation for common space where development cannot occur as not to exceed density allotment in the zoning district where development is occurring.

3. **Reconstruction:** In the event that one or more patio homes are destroyed by fire or other cause, no structure or structures shall be placed on each vacant lot except another patio home which must be built according to the original intent of these regulations. If one or more zero lot line homes are destroyed, no structures shall be placed on each vacant lot except another zero-lot line structure also built according to the original intent of these regulations.
4. **Building and Fire Codes:** All patio home construction will have to meet all applicable building and fire codes adopted by the City of Niota.
5. **Location of structures on lots:** All patio home building envelopes must be marked by the surveyor to ensure setbacks are followed correctly throughout the entire development.

#### **4.24 REGULATIONS FOR TOWNHOUSES (added 9/22/2022)**

All townhouse complexes shall incorporate the following features, which have proved to provide the most attractive developments:

1. **They shall contain a minimum of three (3) units in each building.**
2. **Each townhouse shall have an architectural character that is individual yet compatible with its neighbors.**
3. **Subdivision Plat Approval Procedure for Townhouse Construction:**

Since it is intended that the land in a townhouse development be used for owner-occupied townhouses, each townhouse shall occupy a separate subdivision lot. Since the townhouses are joined or appear to be joined, they shall be built as entire units.

Therefore, to prevent the sale of individual un-built lots, no individual lots can be recorded until the following subdivision and development process shall have been followed by the developer:

- a. Prepare a site plan and a preliminary subdivision plat for the proposed townhouse development.
- b. Present the site plan to the planning staff for approval and the preliminary subdivision plat to the Niota Planning Commission for approval.
- c. Proceed to construct the required streets, etc., and the building units according to these approved plans after obtaining needed building permits. (This may be done for the entire development or may be done in phases.)
- d. Present final plat of the built-up phases to city staff for inspection and verification and then to the Niota Planning Commission for final subdivision approval. (The final plat shall show the individual lot lines exactly where the side walls of the individual units were built.)

- e. If all the final subdivision requirements of the Niota Subdivision Regulations have been met, the planning commission shall grant final subdivision approval for the phases that have been constructed with townhouses.
- f. The developer records this final plat and can then sell these townhouse units.

4. **Area and Dimensional Requirements for Townhouses:**

All townhouses within Niota shall conform to the following measurements:

a. **Minimum Floor Area:**

First floor: 500 sq ft

Min Total: 1,000 sq ft

b. **Minimum Lot Width and Public Street Frontage:** Twenty (20) feet

c. **Minimum Lot Area:** 2,000 Sq. feet Townhouses + 6,000 common conservation - 8,000 total area per unit

d. **Minimum Lot Depth:** One-hundred (100) feet

e. **Minimum Building Line Setbacks:**

Front: 20 ft. from interior street right-of-way and 30 ft. from both streets on corner lots

Side: None except for end units which shall have a fifteen (15) foot side yard or 30 feet on corner lots.

Rear: Fifteen (15) feet

f. **Minimum Separation Between Building Containing Groups of Townhouses:**

End to end .....	30 feet
End to front .....	40 feet
Back to end.....	40 feet
Back to back.....	50 feet
Front to front.....	60 feet
Front to back.....	60 feet

g. **Required Off-Street Parking:** Two spaces (10 feet by 20 feet in size) shall be provided for each dwelling unit. These spaces shall be located entirely upon the lot and shall be directly accessible from the public street right-of-way.

h. **Maximum Density:** Five (5) units per Acre

All remaining acreage, in certain districts, has to be placed in permanent conservation for common space where development cannot occur as not to exceed density allotment in the zoning district where development is occurring.

5. **Reconstruction:** In the event that one or more townhouse units are destroyed by fire or other cause, no structure or structures shall be placed on each vacant lot except another townhouse which must be built according to the original intent of these regulations. If one or more zero lot line homes are destroyed, no structures shall be placed on each vacant lot except another zero-lot line structure also built according to the original intent of these regulations.
6. **Building and Fire Codes:** All townhouse construction will have to meet all applicable building and fire codes adopted by the City of Niota.
7. **Accessory structures:** Accessory structures are prohibited on townhouse lots.

#### **4.25 REGULATIONS FOR PLANNED UNIT DEVELOPMENTS (added 1/9/2023)**

1. **District Description.** Planned unit developments (PUDs) are comprehensive developments, oftentimes featuring mixed uses, that have been carefully considered and holistically planned. They frequently share common parking areas, access points, interior drives, open spaces, site amenities, and consistent architectural styles across clusters of residential and commercial land uses. All PUDS must be approved by both the planning commission and city commission. Due to this heightened level of review, the dimensional requirements and land use provisions are often more flexible than the base zoning district in which the PUD is located. In reviewing and approving PUDs, special consideration shall be given to the compatibility of land uses within the PUD, as well as the impacts of the PUD on public infrastructure, street networks, and adjacent properties.  
PUDs shall comply with all applicable general provisions of this zoning ordinance and the requirements of this section. Where there is a conflict with another regulation or dimensional requirement, the standard specified in this section shall control.
2. **Permitted Uses.** All uses permitted in the underlying zoning district shall be permitted within the PUD. In addition, the following uses shall be permitted in all PUDs:
  - a. Bed and breakfasts, resort hotels, rental and time-share cottages, and related business and ancillary facilities
  - b. Real estate sales and rental offices
  - c. Private and semi-public recreation clubs, and attendant uses and facilities
  - d. Cart and equipment maintenance buildings
  - e. Community centers, clubhouses, and other similar facilities
  - f. Outdoor facilities and amenities including dog parks, green spaces, pavilions, picnic areas, play and outdoor exercise areas, greenways/trails, swimming pools, fishing and water feature ponds, and gardens
3. **Required Uses.** At a minimum, all PUDs shall be developed with all of the following uses integrated into the development:
  1. One or more types of residential housing

2. One or more of the permitted recreational facilities or amenities listed in subsection (2) above.
4. **Dimension Requirements.** Residential PUD developments shall comply with the following dimensional requirements:

<b>SITE COMPONENT</b>	<b>MIN. REQUIREMENT</b>
Minimum PUD area	per district req.
Setback from arterial streets	per district req.
Setback from all other exterior streets	per district req.
Minimum building separation	per district req.
Detached residential lot width	per district req.
Detached residential front setback	per district req.
Detached residential side setback	per district req.
Detached residential rear setback	per district req.
Setback from all exterior property lines	per district req.
Maximum building height	per district req.
Density Requirements	per district req.
Parking Requirements	2 spaces for every dwelling unit

Patio homes, townhouses, and cluster developments in PUDs need to comply with the lot and building setbacks prescribed for those particular developments by this zoning ordinance without the need for a variance. The setbacks and building placement shall be indicated on the PUD site plan and approved by the planning commission.

For non-residential uses in PUDs, the planning commission can make reductions for lot and setback dimensional requirements, as part of the approved design plan process.

5. **Utilities.** Public water and sanitary sewer lines shall be extended to provide water and sewer service to all structures and land uses in the PUD.
6. **Sidewalks.** Sidewalks are required in all residential PUDs. Sidewalks requirements and details for linkages, curb height, width, ADA-compliance, and slope shall be at the discretion of the planning commission.
7. **Parking.** If street width within the development is not sufficient for on-street parking, there must be extra guest parking provided for residents and visitors. In addition, any community common spaces, such as community centers, pools, trail heads, parks, cluster mailboxes, etc. must also have an area for parked cars. Exact requirements may be left to the discretion of the planning commission.
8. **PUD Approval Process.** PUDs require the approval of both the planning commission and the city commission. Once the city commission has approved the PUD design plan, it is the

responsibility of the planning commission to ensure that the development proceeds according to that design plan. PUDs shall be approved and developed in accordance with this section.

1. Developer meeting. First, the developer should consult informally with planning staff and city officials to discuss the PUD requirements, approval process, and development feasibility.
2. PUD design plan. The PUD design plan illustrates the proposed scheme for development and provides the basis of review for determining whether to approve property for development as a PUD. The design plan receives a recommendation from the planning commission, but it is not officially approved until it has been voted upon by the city commission. Once approved by the city commission, all subsequent plans and plats shall conform to the approved plan. The PUD design plan shall be drawn to scale and include the following elements:
  - a. Proposed development name, owner name and address, and developer information
  - b. Acreage of the site
  - c. Current zoning of the site and of adjacent properties
  - d. Date, north point, and graphic scale
  - e. Names of the owners of adjacent lots or tracts
  - f. A vicinity map showing the relation of the proposed development to Niota
  - g. Location and length of existing and proposed property lines
  - h. Existing and proposed sidewalks, roads, curb cuts, drives and parking areas
  - i. General location of all structures planned for the site
  - j. Number of dwelling units
  - k. Areas proposed for open space, recreation facilities, or other amenities
  - l. Proposed location and sizes of utility lines, i.e. water and sewer
  - m. Any other information requested by the planning commission

Note: If the PUD is proposed to be developed in phases, the overall plan of development for all phases may be submitted in one comprehensive design plan. Separate site plans for each phase may then be submitted to and approved by the planning commission without having to come back to the city commission for approval of a separate PUD design plan.

3. Review of PUD design plan by planning commission. The planning commission shall review the PUD design plan and make a recommendation thereon to the city commission. The planning commission may recommend approval, disapproval, or approval subject to modifications.
4. Approval of PUD by city commission. The developer shall revise and resubmit the PUD design plan with any modifications that were requested by the planning

commission. The city commission shall then conduct an advertised public hearing and perform the required number of readings before voting to approve the PUD design plan and zoning map amendment. If the planning commission recommended in favor of the PUD design plan, the plan and zoning amendment may be approved with a simple majority vote. If the planning commission recommended against the PUD design plan, then a majority vote of the entire city commission shall be required for approval. Upon passage, the property shall be labeled as a PUD on the zoning map and the PUD design plan shall be deemed approved.

5. PUD site plan. Whereas the PUD design plan contains general information sufficient to receive PUD approval, the PUD site plan contains detailed information about building sizes and locations, parking areas, recreational amenities, drainage facilities, landscaping, building design, and other components.

Before beginning site preparation or construction, the developer shall prepare and submit a PUD site plan for review and approval by the planning commission. Civil design drawings shall be submitted if requested by the planning commission or staff. In addition, detailed landscaping and exterior design plans shall also be submitted.

The planning commission shall review the site plan for conformance with the PUD design plan which was approved by the city commission. If the site plan conforms to the approved design plan and complies with all applicable zoning requirements, the PUD site plan may be approved and construction can begin.

6. Preliminary subdivision plat. If the PUD involves the creation of new subdivision lots or requires the installation of streets or utilities, a preliminary plat shall be submitted and approved along with the PUD site plan. The preliminary plat shall comply with all requirements of the Niota subdivision regulations.
7. Final subdivision plat. If a preliminary subdivision plat was required, a final plat shall be submitted upon completion of all required improvements within that phase of the PUD. No building sites or lots shall be sold or transferred until a final subdivision plat has been approved by the planning commission.

If home ownership is planned for the residents of the development, a master deed and any homeowner association contracts shall be submitted at the time final subdivision plat approval if requested.

9. **Modifications to approved PUD design plans**. Once the PUD design plan has been approved by the city commission, the planning commission is responsible for ensuring that development proceeds according to the approved design plan. However, because the design plan is considered preliminary and is used primarily to obtain PUD zoning approval, the final development may vary from the original from the original design plan. Oftentimes, changes are required upon completion of field investigations and engineering studies. To avoid having to obtain approval by the city commission for every minor change, the planning commission is authorized to approve the following modifications from the approved design plan:

1. Increases or decreases in gross square footage of parking areas, residential uses, or non-residential uses up to 10%.
2. Increases or decreases in the gross number of residential units up to 10%.
3. Modifications of interior circulation systems (roads), provided that such changes are in conformance with the road design criteria outlined in the Niota subdivision regulations or as otherwise set by the planning commission or the city commission as conditions during the original design plan approval.
4. Relocation of vehicular access points and driveways along the same road as originally approved, but not additional entrances or access points.
5. Changes in road names.
6. Increases in gross impervious surface area up to 10%.
7. Increases in building height up to the limit established by the underlying zoning district.
8. Changes in the locations of utility lines and fire hydrants, provided that such changes comply with all requirements of the Niota subdivision regulations.
9. Increases in landscaping, natural areas, open space, and trail facilities by any amount.
10. Other modifications where the planning commission determines that the change will not drastically change or alter land uses, traffic patterns, infrastructure systems, or environment in a manner that is inconsistent with the PUD design plan originally approved by the city commission.

All other modifications including, but not limited to, conversions in residential housing styles (e.g. replacing detached patio homes with condominiums or apartments), changes in intensity or nature of recreational uses (e.g. replacing a swimming pool with a golf course or ATV trails), expansions of commercial areas over 10%, or any change that would significantly impact existing natural features or contribute to off-site stormwater runoff shall require a recommendation from the planning commission and approval of a modified design plan by the city commission. The city commission shall conduct a public hearing on the revised plan prior to approval.

10. **Variations in PUD developments.** Although PUDs are intended to provide more flexible development standards for large-scale, mixed-use, and resort-style developments, they are nevertheless required to comply with the PUD requirements and those for the underlying zoning district, as applicable. If a PUD requires a variance, the request shall be submitted to the board of zoning appeals following the regular variance approval process in Article 10.08. A developer shall have the option of receiving variances prior to submission of the design plan to the city commission. Obtaining the variances beforehand may eliminate the need to submit a revised PUD design plan in the event a variance request is later denied.



## ARTICLE 5

### PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

#### 5.01 **R-1 RESIDENTIAL DISTRICT.**

1. **District Description.** This residential district is intended to be used for single-family and multi-family dwellings. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.
2. **Uses Permitted.** In the R-1 Residential District, the following uses and their accessory uses are permitted.
  - a. Single-family and two-family dwellings, including modular homes.
  - b. Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than ten (10) feet to any lot line, and shall not cover more than thirty (30) percent of any required rear yard.
  - c. Churches or similar places of worship.
  - d. Public schools and other public educational facilities.
  - e. Utility facilities necessary for the provision of public services.
  - f. Home occupations as regulated in Article 4, Section 4.12.
3. **Uses Permitted on Review.** In the R-1 Low Density Residential District, the following use and its accessory use may be permitted subject to the approval of the Niota Planning Commission
  - a. Cemeteries, subject to the provisions of Article 4, Section 4.21.
  - b. Professional offices with no more than one thousand and five hundred square feet (1,500) dedicated to non-residential use.
  - c. Bed and Breakfast facilities.
4. **Uses Prohibited.** In the R-1 Residential District, all uses except those uses permitted upon review and approval by the Niota Municipal Planning Commission are prohibited.

5. **Dimensional Regulations.** All uses permitted in the R-1 Residential District shall comply with the following requirements except as provided in Article 9.

- a. **Front Yard.** The minimum depth of the front yard shall be twenty (20) feet.
- b. **Rear Yard.** The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and ten (10) feet for any permitted accessory structure.
- c. **Side Yard.** The side yards shall be a minimum of ten (10) feet for one- and two-story structures.
- d. **Land Area.**

On lots or parcels of land where single- or multi-family dwellings are constructed, the following minimum lot area requirements shall apply.

NUMBER OF DWELLING UNITS	WITH PUBLIC WATER AND SANITARY SEWERS	WITH PUBLIC WATER BUT WITHOUT SANITARY SEWERS*
1 unit	7,500 sq. ft.	20,000 sq. ft.
2 units	10,000 sq. ft.	30,000 sq. ft.
3 units	15,000 sq. ft.	40,000 sq. ft.
Over 3 units	15,000 sq. ft. + 2,500 sq. ft. for each unit over 3	Not permitted

\*The Tennessee Department of Environment and Conservation (TDEC) may require a larger minimum lot size when sanitary sewer is not utilized. The minimum lot size may be increased by the requirements of the TDEC but in no case shall they be reduced.

- e. **Maximum Lot Coverage.** On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed forty-five (45) percent of the total area of such lot or parcel.
  - f. **Lot Width.** No lot shall be less than seventy-five (75) feet wide at the building setback line.
  - g. **Height Requirement.** No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 9, Section 9.03.
6. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.
7. **Access Control.** As regulated in Article 4, Section 4.09.

**5.02 R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.**

1. **District Description.** This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas which by location and character are appropriate for occupancy by moderate density, single-family and selected multiple-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for the residents and adequate space for all related facilities.
2. **Uses Permitted.** In the R-2 Residential District, the following uses and their accessory uses are permitted.
  - a. Single-family and two-family dwellings, including modular homes.
  - b. Multiple-family dwellings.
  - c. Single-wide mobile homes provided they are located in a licensed mobile home park or on an existing mobile home parking site as outlined in the Mobile Home Regulations in Niota's City Code. All other provisions of the Mobile Home Regulations must be adhered to.
  - d. Churches or similar places of worship.
  - e. Public schools and other public educational facilities.
  - f. Utility facilities necessary for the provision of public services.
  - g. Public golf courses, parks, country clubs, and swimming pools.
  - h. Home occupations as regulated in Article 4, Section 4.12.
3. **Uses Permitted on Review.** In the R-2 Low Density Residential District, the following use and its accessory use may be permitted subject to the approval of the Niota Planning Commission
  - a) Cemeteries, subject to the provisions of Article 4, Section 4.21.
  - b) Professional offices with no more than one thousand and five hundred square feet (1,500) dedicated to non-residential use.
  - c) Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than ten (10) feet to any lot line, and shall not cover more than thirty (30) percent of any required rear yard.

- d) Zero-lot line townhouses on twenty (20) foot wide minimum lots.
  - e) Patio homes on fifty (50) foot wide minimum lots.
  - f) Planned Unit Developments
  - g) Boarding and rooming houses.
  - h) Group homes for the elderly and physically or mentally handicapped, subject to a maximum of eight (8) residents and compliance with all state laws governing such facilities.
  - i) Group Child Care Homes
  - j) Schools
  - k) Family Care Facilities
  - l) Telecommunication structures
  - m) Bed and Breakfast facilities
  - n) Garage apartments
4. **Uses Prohibited.** In the R-2 Residential District, all uses except those uses permitted upon review and approval by the Niota Municipal Planning Commission are prohibited.
5. **Dimensional Regulations.** All uses permitted in the R-2 Residential District shall comply with the following requirements except as provided in Article 9.
- a. **Front Yard.** The minimum depth of the front yard shall be twenty-five (25) feet.
  - b. **Rear Yard.** The minimum depth of the rear yard shall be fifteen (15) feet for the principal structure and ten (10) feet for any permitted accessory structure.
  - c. **Side Yard.** The side yards shall be a minimum of fifteen (15) feet for one- and two-story structures.

d. **Land Area.**

On lots or parcels of land where single- or multi-family dwellings are constructed, the following minimum lot area requirements shall apply.

NUMBER OF DWELLING UNITS	WITH PUBLIC WATER AND SANITARY SEWERS	WITH PUBLIC WATER BUT WITHOUT SANITARY SEWERS*
1 unit	7,500 sq. ft.	20,000 sq. ft.
2 units	10,000 sq. ft.	30,000 sq. ft.
3 units	15,000 sq. ft.	40,000 sq. ft.
Over 3 units	15,000 sq. ft. + 2,500 sq. ft. for each unit over 3	Not permitted

\*The Tennessee Department of Environment and Conservation (TDEC) may require a larger minimum lot size when sanitary sewer is not utilized. The minimum lot size may be increased by the requirements of the TDEC but in no case shall they be reduced.

e. **Maximum Lot Coverage.** On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed fifty-five (55) percent of the total area of such lot or parcel.

f. **Lot Width.** No lot shall have less than 50 ft of street frontage and a minimum of fifty (50) at the building setback line.

g. **Height Requirement.** No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 9, Section 9.03.

6. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.

7. **Access Control.** As regulated in Article 4, Section 4.09.

## ARTICLE 6

### PROVISIONS GOVERNING AGRICULTURAL DISTRICTS

#### 6.01 AG AGRICULTURAL DISTRICT.

8. **District Description.** This agricultural district is intended to be used for agricultural purposes as well as single-family and multi-family dwellings. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.
9. **Uses Permitted.** In the AG Agricultural District, the following uses and their accessory uses are permitted.
  - a. Any use permitted in the R-1 Residential District
  - b. Agricultural uses including the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts, berries; vegetables, nursery, floral, ornamental and greenhouse products. Industrial animal farming uses, such as commercial chicken houses/production facilities and confined animal feeding operation, are strictly prohibited. **(Sentence added 12/12/22)**
  - c. Agritourism uses including recreational, entertainment, or education events and activities that allows members of the public to view or enjoy rural activities such as farming, ranching, historical cultural, harvest-your-own activities, tours, and attractions. **(Added 12/12/22)**
10. **Uses Permitted on Review.** In the AG Agricultural District, the following use and its accessory use may be permitted subject to the approval of the Niota Planning Commission
  - d. Cemeteries, subject to the provisions of Article 4, Section 4.21.
  - e. Professional offices with no more than one thousand and five hundred square feet (1,500) dedicated to non-residential use.
11. **Uses Prohibited.** In the AG Agricultural District, all uses except those uses permitted upon review and approval by the Niota Municipal Planning Commission are prohibited.

12. **Dimensional Regulations.** All uses permitted in the AG Agricultural District shall comply with the following requirements except as provided in Article 9.

- h. **Front Yard.** The minimum depth of the front yard shall be twenty (20) feet.
- i. **Rear Yard.** The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and ten (10) feet for any permitted accessory structure.
- j. **Side Yard.** The side yards shall be a minimum of ten (10) feet for one- and two-story structures.
- k. **Land Area.**

On lots or parcels of land where single- or multi-family dwellings are constructed, the following minimum lot area requirements shall apply.

NUMBER OF DWELLING UNITS	WITH PUBLIC WATER AND SANITARY SEWERS	WITH PUBLIC WATER BUT WITHOUT SANITARY SEWERS*
1 unit	7,500 sq. ft.	20,000 sq. ft.
2 units	10,000 sq. ft.	30,000 sq. ft.
3 units	15,000 sq. ft.	40,000 sq. ft.
Over 3 units	15,000 sq. ft. + 2,500 sq. ft. for each unit over 3	Not permitted

\*The Tennessee Department of Environment and Conservation (TDEC) may require a larger minimum lot size when sanitary sewer is not utilized. The minimum lot size may be increased by the requirements of the TDEC but in no case shall they be reduced.

- l. **Maximum Lot Coverage.** On any lot or parcel of land, the area occupied by all buildings including accessory buildings shall not exceed fifty-five (55) percent of the total area of such lot or parcel.
  - m. **Lot Width.** No lot shall be less than seventy-five (75) feet wide at the building setback line.
  - n. **Height Requirement.** No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 9, Section 9.03.
13. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.
14. **Access Control.** As regulated in Article 4, Section 4.09.

## ARTICLE 7

### PROVISIONS GOVERNING COMMERCIAL DISTRICTS

#### 7.01 C-1 CENTRAL BUSINESS DISTRICT.

1. **District Description.** This district is established to provide an area for the conduct of community and regional retail and service business of an indoor and intensive nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefitted by close proximity to other uses of similar nature and requirements, and for only those small-scale industrial uses commonly associated with retail, or business, or personal service activities. It is intended that such areas have properties of size suitable for uses of a variety of scale so developed as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial and industrial activities which are characterized by trucking other than stocking and delivery of retail goods which cater exclusively to automobiles or traffic or to patrons who remain in their vehicles for service.
2. **Uses Permitted.** The following uses and their accessory uses shall be permitted in the C-1 Central Business District.
  - a. Retail sales or rentals including computer equipment, supplies and software; variety, discount and general merchandise; clothing and apparel, florists, copy and print shops, office furniture and supplies; home and office communication supplies and equipment, furniture and home furnishings, home appliances, books, magazines and newspapers; audio and video equipment-rental, repair, sale and supplies including televisions; DVDs, music and musical instruments; hardware, garden and lawn supplies and equipment; auto parts and tires, jewelry, home appliances, hobby stores, sporting goods, antiques, gifts, souvenirs, card shops, pet supplies, tobacco, and liquor (with necessary permits), and including those which are making products sold at retail on the premises, providing such manufacturing is incidental to the retail business or service, occupies less than twenty (20) percent of the gross floor area, provided further that all materials are stored and all work that is done on the premises is done within a building.
  - b. Personal service establishments including barber and beauty shops, laundromats, shoe repair, seamstress, tailors and alterations; indoor recreation but not including pool halls, video arcades and game rooms; day care centers, art, dance, martial arts, music and photography studios; dry cleaners, funeral homes, eye examinations and glasses, hearing aids, home sick room supplies and equipment, ambulance services, locksmiths, real estate offices, and travel agencies, but not including adult oriented entertainment and sales.
  - c. Business and professional offices; financial institutions.



- d. Public buildings and grounds including government offices and functions
  - e. Hotels, motels.
  - f. Commercial recreational facilities excluding drive-in theaters and outdoor recreation facilities, pool halls, game rooms and video arcades.
  - g. Utility facilities as needed for the provision of public service to the immediate area only.
  - h. Automobile service stations.
  - i. Drug stores and pharmacies.
  - j. Restaurants, grills, and similar eating establishments, including take-outs but excluding those with a drive-thru.
  - k. As an accessory use, living quarters for the proprietor where said person and his/her immediate family may reside on the premises in the office or retail establishment.
3. **Uses Permitted on Review.** In the C-1 Central Business District, the following uses and their accessory uses may be permitted subject to review and approval of the Planning Commission as regulated in Article 10, Section 10.06:
- a. Commercial parking lots.
  - b. Public transportation terminals including taxi stands.
  - c. Manufacturing processing and other establishment of an artistic and crafts nature such as: ice cream, candy, jewelry, pottery, light metal fabrication and blacksmith, woodworking, computers and electronics, furniture crafting and reconditioning. The Planning Commission shall consider the impacts on adjoining properties and determine whether the proposed use meets the spirit and intent of this ordinance and the C-1 district. Approval of this Use on Review *may* be granted where the requirements shown below are met and subject to such restrictions as the commission may determine to protect the public health, safety and welfare.
    - (1) The establishment shall not occupy more than 5,000 square feet.
    - (2) There shall be not more than eight (8) persons employed including the owner/proprietor.
    - (3) There shall be no exterior storage or materials or product except in areas which are surrounded by opaque fencing, nor shall the exterior appearance of the structure indicate that any use is occurring which is not a customary use in the C-1 district.

- (4) There shall be no more than a moderate adverse environmental impact on surrounding development in the form of smoke, odor, dust, noise, gas fumes and fire hazards, and traffic, to include loading and unloading.
- d. Residential units are allowed on the upper floors and in the rear of any structure in the C-1 district as a use permitted on review. The following requirements shall apply to commercial/residential mixed use. When a conflict arises between these regulations and other regulations found in this ordinance or elsewhere, the strictest regulation shall apply:
  - (1) The first floor of the structure which fronts the street shall be maintained for commercial use in accordance with the allowed uses of the C-1 zoning district. The first floor is not intended to include basements or storage space located primarily below grade.
  - (2) Residential units located in the rear of a commercial building shall be separate and not interfere with loading/unloading areas.
  - (3) Each residential unit shall have at least one off-street parking space dedicated to the use of the residents. For units above 1,000 square feet of floor space, two off-street parking spaces shall be required. Residential parking spaces shall be required in addition to the parking requirements found in Section 4.07 of this ordinance.
  - (4) Off-street parking shall be located on the same lot as the building in which the residential units are located.
  - (5) Residential units shall have separate access from commercial establishments.
  - (6) The Planning Commission shall review a request for commercial/mixed use in order to ensure adherence to these requirements and to promote the health, safety, and welfare of the public. Reasons for denial of a request include:
    - a. The intensity and nature of the primary commercial use or adjacent uses make the addition of residential units inappropriate.
    - b. The addition of residential units would have a negative impact on the internal transportation system of the lot, adjacent properties or the external transportation system.
4. **Uses Prohibited.** In the C-1 Central Business District, all uses except those uses specifically permitted or permitted on review and approval by the Niota Municipal Planning Commission are prohibited.
5. **Dimensional Regulations.** All uses permitted in the C-1 Central Business District shall comply with the following requirements except as provided in Article 9.
  - a. **Front Yard.** No minimum front yard shall be required in the C-1 Central Business District.

- b. **Rear Yard.** Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than twenty (20) feet in depth. The depth of a rear yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases, no rear yard is required.
  - c. **Side Yard.** No side yard shall be required except that the width of a side yard which abuts a residential district shall be twenty-five (25) feet.
  - d. **Height Requirement.** No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet, except as provided in Article 9, Section 9.03.
- 6. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.
  - 7. **Off-Street Loading and Unloading.** As regulated in Article 4, Section 4.08.
  - 8. **Access Control.** As regulated in Article 4, Section 4.09.

## **7.02 C-2 GENERAL COMMERCIAL DISTRICT.**

- 1. **District Description.** The C-2 General Commercial District is established to provide areas in which the principal use of land is devoted to general and highway commercial activities; regulations are designed to preserve the traffic-carrying capacity of the streets and roads and to provide for necessary off-street parking and loading.
- 2. **Uses Permitted.** In the C-2 General Commercial District, the following uses and their accessory uses are permitted.
  - a. Any use permitted in C-1 Central Business District
  - b. Hotels, motels, and tourist courts.
  - c. Churches, funeral homes, or mortuaries.
  - d. Drive-in establishments for the retail sale of merchandise.
  - e. Medical and health clinics, nursing homes, assisted living residences, and schools.
  - f. Automobile service stations as regulated by Article 4, Section 4.17.
  - g. Automobile service sales, and repair establishments.
  - h. Furniture and appliance sales, service, and repair establishments.
  - i. Tire sales and recapping or retreading establishments.

- j. Commercial recreation uses.
  - k. Restaurants including those with a drive-thru and those of a drive-in nature.
  - l. Tourist services, including tourist information centers, souvenir/gift shops and hunting/fishing/boating/camping supply shops.
  - m. Ambulance and other emergency services.
  - n. Utility facilities necessary for the provision of public services.
3. **Uses Permitted on Review.** In the C-2 General Commercial District, the following uses and their accessory uses may be permitted subject to review and approval by Niota Municipal Planning Commission.
- a. Campgrounds, recreational vehicle (RV) parks and mobile home parks (subject to Title 14, Chapter 2 of the Niota City Code).
  - b. Amusement parks, amphitheaters, ballparks or stadiums, fairgrounds, pool halls, game rooms, video arcades and group picnic grounds.
  - c. Shopping centers, subject to Article 4, Section 4.14.
  - d. Zoo's.
  - e. Airports.
  - f. Flea markets and similar outdoor sales.
  - g. Tattoo parlors and body piercing parlors that comply with all state requirements in Tennessee Code Annotated §62-38 as amended.
  - h. Residential units are allowed on the upper floors in the C-2 district as a use permitted on review. The following requirements shall apply to commercial/residential mixed use. When a conflict arises between these regulations and other regulations found in this ordinance or elsewhere, the strictest regulation shall apply:
    - (1) The first floor of the structure shall be maintained for commercial use in accordance with the allowed uses of the C-2 zoning district. The first floor is not intended to include subterranean basements or storage space.
    - (2) Each residential unit shall have at least one off-street parking space dedicated to the use of the residents. For units above 1,000 square feet of floor space, two off-street parking spaces shall be required. Residential parking spaces shall be required in addition to the parking requirements found in Section 4.07 of this ordinance.

- (3) Off-street parking shall be located on the same lot as the building in which the residential units are located.
  - (4) Residential units shall have separate access from commercial establishments.
  - (5) No more than two residential units shall be allowed in any structure.
  - (6) The Planning Commission shall review a request for commercial/mixed use in order to ensure adherence to these requirements and to promote the health, safety, and welfare of the public. Reasons for denial of a request include:
    - a. The intensity and nature of the primary commercial use or adjacent uses make the addition of residential units inappropriate.
    - b. The addition of residential units would have a negative impact on the internal transportation system of the lot, adjacent properties or the external transportation system.
4. **Special Exceptions.** In the C-2 General Commercial District the following use and its accessory uses may be permitted subject to the approval of the Niota Board of Zoning Appeals.
  - a. Cemeteries, subject to the provisions of Article 4, Section 4.21.
5. **Uses Prohibited.** All uses except those uses or their accessory uses specifically permitted or permitted upon review and approval by the Niota Municipal Planning Commission.
6. **Dimensional Regulations.** The following requirements shall apply to all uses permitted in this district. In addition to these requirements, a site plan is also required as provided in Article 4, Section 4.23.
  - a. **Front Yard.** The minimum depth of the front yard shall be thirty (30) feet on local or collector streets and thirty-five (35) feet on arterial streets as defined in the Niota Major Road Plan.
  - b. **Rear Yard.** Each lot shall have a rear yard of not less than ten (10) feet; where a commercial building is serviced from the rear, there shall be provided a rear yard of not less than thirty (30) feet; the depth of a rear yard which abuts a residential district shall not be less than twenty-five (25) feet.
  - c. **Side Yard.** On the side of a lot adjoining a residential district, there shall be a side yard of not less than twenty-five (25) feet. Where a lot abuts an intersection, there shall be a side yard setback of not less than twenty-five (25) feet. In all other cases, a side yard shall not be required.
  - d. **Height Requirements.** No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet, except as provided in Article 9, Section 9.03.
7. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.

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8. [\*\*Off-Street Loading and Unloading.\*\*](#) As regulated in Article 4, Section 4.08.
9. [\*\*Access Control.\*\*](#) As regulated in Article 4, Section 4.09.

## ARTICLE 8

### PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

#### 8.01 I-1 GENERAL INDUSTRIAL DISTRICT.

1. **District Description.** The I-1 General Industrial District is intended to provide areas in which the principal use of land is for manufacturing, processing, assembling, fabrication of materials, and warehousing or storage. These land uses generally do not depend primarily on frequent personal visits by clients or customers, but generally require good accessibility to major rail, water, or highway transportation routes. Such activities may have certain adverse effects upon surrounding properties and may, in some instances, not be compatible with various other zoning districts or other types of land use activities in Niota.
2. **Uses Permitted.** In the I-1 General Industrial District, the following uses and their accessory uses are permitted.
  - a. Laundry and dry cleaning plants, agricultural implement warehousing and distribution facilities, building materials and lumber yards, furniture and appliance warehousing and distribution facilities, engraving and printing establishments, public utilities, and other wholesaling and warehousing activities.
  - b. Bottling and packaging plants, assembly plants, furniture manufacturing plants, product fabrication establishments sporting goods manufacturing, and other manufacturing or assembly plants which do not represent a potential threat to surrounding districts or to the environment.
  - c. Auto-Repair garages.
  - d. Contracting or engineering offices and establishments.
  - e. Gasoline, oil, and liquefied gasses storage
  - f. Sand or gravel extraction or storage operations.
  - g. A retail or service use only where it directly serves or is auxiliary to the needs of industrial plants or employees thereof.
  - h. Freighting or trucking yards or terminals.
  - i. Any heavy manufacturing, processing, assembling, or fabricating plants; foundry casting of non-ferrous and ferrous metals not causing noxious fumes or odors; acetylene gas manufacture or bulk storage.
  - j. Signs and billboards

- k. Industries, provided that any industry that may cause injurious or obnoxious noise, vibration, smoke, gas fumes, odor, dust, fire hazard or other objectionable conditions, shall be required to show that the proposed location, construction and operation will not injure present or prospective industrial development in the district or surrounding district.
3. **Uses Permitted on Review.** In the I-1 General Industrial District, the following uses and their accessory uses may be permitted subject to review and approval by the Niota Planning Commission
- a. Other manufacturing, assembling, fabrication, warehousing and storage uses except those which upon review of the Planning Commission are determined to be obnoxious or offensive by reason of emission or odor, dust, smoke, gas, noise, vibration, and the like, and those uses deemed dangerous due to potential explosion dangers, threat of fire, or poisonous fumes. Any of the above mentioned obnoxious, offensive, or dangerous uses shall be permitted only on the written approval of the Niota Municipal Planning Commission and subject to such conditions in the interest of public health, safety, and welfare.
  - b. Lots or yards for scrap or salvage operations or for processing, storage, display, or sales of any scrap, salvage, or second-hand building materials, as regulated in Section 4.19 of this Ordinance.
  - c. Retail sales and Commercial Indoor Recreation.
4. **Special Exceptions.** In the I-1 General Commercial District, the following uses and their accessory uses may be permitted by the Niota Board of Zoning Appeals:
- a. **Conditional Uses**
    - 1. Adult-oriented establishments, subject to the following special restrictions:
      - (a) **Restrictions.** In no case shall an adult-oriented establishment be permitted to locate within five hundred feet (500') of any boundary to an R-1 Residential Zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') of a residential use within any zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') from the nearest property line of a site with is used for the purpose of a recreation park, playground or swimming pool (not including ornamental only parks); place of worship, public or private school, day care center, or another adult-oriented establishment. Measurements shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of said uses.
      - (b) **Evaluation.** For the purpose of enforcing this section, it shall be the responsibility of the zoning officer to measure, evaluate, and advise



the Planning Commission regarding compliance of a proposed adult-oriented establishment with the restrictions set forth herein. It shall be the responsibility of the applicant to supply a site plan, as set forth in Section 4.22, and any other maps, surveys, or other such special information as might reasonably be required and requested by the Planning Commission or its designee for use in making a thorough evaluation of the application.

- (c) 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 I-1 or to own, manage or operate such an establishment without obtaining a conditional use permit as required herein and any other permit the City of Niota may require. Obtaining any other required permits shall be a requirement of the conditional use permit.
- (d) Hours of Operation. Under the authority of *TCA 7-51-1402(b)* the hours of operation for an adult-oriented establishment shall be opening not earlier than one (1) o'clock p.m. and closing not later than eleven (11) o'clock p.m. Monday through Thursday, and not later than twelve (12) midnight on Fridays and Saturdays. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday as designated in *TCA 15-1-101*.
- (e) Physical Design of Premises. As provided in *TCA 7-51-1403* no person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult-oriented establishment and which contains:
  - (1) Partitions between subdivisions of a room, portion or part of a building structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; or
  - (2) Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains, or portal partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be so such intensity as to prevent the viewing of motion pictures or other offered entertainment.

- (f) **Revocation and Hearing:** Expansion, relocation, substantial misrepresentation, violation of any of the terms of the ordinance, a change in the 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 shall constitute grounds for revocation of the special permit after notice and hearing. Notice of the hearing before the Board of Zoning Appeals for revocation of the permit shall be given in writing setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's or owner's last known address at least five (5) days prior to the date set for the hearing.
  - (g) **Signs and Other Visible Messages.** Signs and visible messages based on the allowable sign area of the zoning district are permitted provided:
    - (1) Sign messages shall be limited to a written description of material or services available on the premises;
    - (2) Sign messages may not include any graphic or pictorial depiction of material or services available on the premises;
    - (3) Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.
2. Automobile wrecking, salvage and junk yards subject to the provisions of Article 4, Section 4.19.
5. **Uses Prohibited.** In the I-1 General Industrial District, all uses except those uses specifically permitted or permitted upon review and approval of the Niota Municipal Planning Commission or as a Special Exception by the Board of Zoning Appeals are prohibited.
6. **Dimensional Regulations.** All uses permitted in the I-1 General Industrial District shall comply with the following requirements except as provided in Article 9.
- a. **Front Yard.** The minimum depth of the front yard shall be thirty (30) feet.
  - b. **Rear Yard.** The minimum depth of the rear yard shall be thirty (30) feet. No yard shall be required for that portion of a lot which fronts on a railroad or rail spur.

- c. **Side Yard.** The minimum depth of the side yard shall be twenty (20) feet, except that side yards for industrial lots adjacent to residential districts shall be a minimum of fifty (50) feet. No yard shall be required for that portion of a lot which fronts on a railroad or rail spur line.
  - d. **Land Area.** No minimum land area requirement shall be imposed in the I-1 General Industrial District; however, a site plan is required as provided in Article 4, Section 4.21.
  - e. **Maximum Lot Coverage.** No maximum lot coverage shall be imposed in the I-1 General Industrial District.
  - f. **Height Requirement.** No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Article 9, Section 9.03.
7. **Parking Space Requirements.** As regulated in Article 4, Section 4.07.
8. **Landscape Treatment.** Each site shall be developed with ten (10%) percent of its area landscaped. Along the street property line a strip of landscaped ground of a minimum width of ten (10) feet exclusive of drives and walks shall be provided and maintained.

Landscape treatment shall not interfere with sight line requirements, nor obstruct needed views of buildings or their means of identification. All landscape should be designed for minimum maintenance; in an area difficult to maintain paving or terracing may be used as a part of the landscape treatment. Retention of existing vegetation may also be used to fulfill landscape requirements.

## ARTICLE 9

### EXCEPTIONS AND MODIFICATIONS

This Article is established to provide relief from unnecessary hardships that may occur from the applications of this ordinance to a specific piece of property. Further, it is intended to provide for the establishment of group developments that could not reasonably adhere to the provisions of this ordinance.

#### **9.01 EXISTING LOTS**

Where the owner of a plot of land consisting of one (1) or more adjacent lots, at the time of enactment of this ordinance, did not at that time own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance; or if topography, physical shape or other unique features of such lots of record prevent reasonable compliance with the setback or other requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit reasonable use of the property as a building site. However, in no case shall the building inspector permit any lot in a residential district to be used as a building site which is less than five thousand (5,000) square feet in total area and thirty (30) feet in width, or has a front yard setback of less than fifteen (15) feet and a side yard setback of less than three (3) feet.

#### **9.02 FRONT YARD SETBACK OF DWELLINGS**

The front yard setback requirement of this ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback but no less than the average of the setbacks of the aforementioned existing buildings.

#### **9.03 HEIGHT LIMITS**

The height limitations of this ordinance shall not apply to belfries, church spires, cupolas, domes and similar structures not intended for human occupancy, nor to chimneys, derricks, flag poles, monuments, radio or television towers or aerials, smoke stacks, transmission towers, water towers and similar structures.

#### **9.04 NON-CONFORMITIES**

Any lawful use of any building or land existing at the time of enactment of this ordinance, prior to an amendment to this ordinance, or prior to being annexed into the city, may continue although it does not conform to the provisions of this ordinance, provided that:

- a. No change is made in the use of the land.

- b. No non-conforming industrial and commercial use that intentionally and voluntarily ceases to operate for a period of thirty (30) continuous months may be reestablished. Such 30-month period shall be counted from:
- 1) The final settlement, order, decree, or judgment when said use or establishment is a party to any action in a court of competent jurisdiction regarding the use of said property.
  - 2) Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within the thirty (30) months of cessation of continuous use. Provided also that any structure so constructed or rebuilt shall conform to the setbacks and height requirements of the zoning district in which it shall be located.
  - 3) The filing of an application for a building permit for the alteration, renovation or reconstruction of a non-conforming structure that a non-conforming industrial or commercial use operated from or that was located in.

The use must be reactivated within the thirty (30) month period.

This applies only to land owned and in use by such affected business and does not permit expansion of an existing industry or business through the acquisition of additional land.

Provided however, the 30-month provision shall not apply to any non-conforming industrial establishment with twenty-five (25) percent or more of gross annual sales or sales as a subcontractor to contractors, are to local, state or federal governments; or where said industrial use/location where seventy-five (75) percent of gross annual sales are made to agriculture or construction business.

- c. Industrial, commercial or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations, construct additional facilities, or rebuild facilities which involve an actual continuance and expansion of the activities of the industry or business where were permitted and being conducted prior to the change in zoning; provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning so as to avoid nuisance to adjoining landowners.
- d. When the use permitted to continue to expand, or to be rebuilt pursuant to any subsection of this section is an off-premises sign, such use shall not preclude any new or additional conforming use or structure on the property on which the sign structure is located or on any adjacent property under the same ownership; provided, however, that any such new or additional use or structure does not result in any violations of the applicable zoning restrictions other than those nonconformities associated with the off-premises sign as allowed under this

subdivision. All expansions of off-premises signs shall be limited as follows:

- 1) Any off-site sign smaller than a standard 8-sheet poster which, for the purposes of this subsection, means an off-site sign with overall dimensions of at least five feet four inches (5' 4") to six feet two inches (6' 2") in height and eleven feet four inches (11' 4") to twelve feet two inches (12' 2") in width shall not be expanded to a size greater than a standard 8-sheet poster;
  - 2) Any standard 8-sheet poster shall not be expanded to a size greater than a 30-sheet poster which, for the purposes of this subsection (h), means an off-site sign with overall dimensions of twelve feet three inches (12' 3") in height and twenty-four feet six inches (24' 6") in width;
  - 3) Any standard 30-sheet poster shall not be expanded to a size greater than any standard bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of ten feet (10') to fourteen feet (14') in height and thirty-six feet (36') to forty-eight feet (48') in width;
  - 4) Any standard bulletin shall not be expanded to a size greater than any super bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of sixteen feet (16') to twenty feet (20') in height and sixty feet (60') in width;
  - 5) Any super bulletin shall not be expanded; or
  - 6) Any off-site sign with a height larger than standard 8-sheet poster height or width larger than standard 8-sheet poster width but not meeting the definition of a standard 8-sheet poster, a standard 30-sheet poster, a standard bulletin, or a standard super bulletin shall not be expanded by more than one hundred percent (100%) of its surface area.
- e. An existing non-conforming use, which is NOT an industrial, commercial, or business use, shall meet these criteria:
- 1) An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same or higher classification. Provided, however, that establishment of another non-conforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals *and such reasonable conditions as the BZA* may require in order to protect the neighboring area.
  - 2) A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this Ordinance; a non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this Ordinance.
  - 3) When a non-conforming use of any structure or land, excepting non-conforming mobile home or mobile home parks, has been discontinued for a

period of eighteen (18) months, it shall not be re-established or changed to any use not in conformity with the provisions of this Ordinance. Immediately upon the removal of a non-conforming mobile home or mobile home park, the non-conformity of such structure or use of land shall lapse.

- 4) Any non-conforming residential structure or non-conforming use which is damaged by fire, flood, wind, or other act of God or man may be reconstructed and used as before where this is done within eighteen (18) months of such damage. Provided, however, any structure damaged to extent of more than sixty (60) percent of its assessed value immediately prior to damage in which case any repair, reconstruction, or future use shall be in conformity with the provisions of this Ordinance.
- 5) A non-conforming building or buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this Ordinance; this provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

## ARTICLE 10

### ADMINISTRATION, ENFORCEMENT AND PENALTIES

The intent of this Article is to provide for suitable and proper administration and enforcement of the provisions of this ordinance; to designate the enforcing officer and to outline the proper steps to be taken by parties interested in constructing, erecting or modifying a structure or other land use; to include a means whereby appeals can be made; and to set forth the penalties for violating the provisions of this ordinance.

#### **10.01 ADMINISTRATION OF THE ORDINANCE.**

Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

#### **10.02 THE ENFORCEMENT OFFICER.**

The provisions of this ordinance shall be administered by the Niota Zoning Officer. The Zoning Officer shall be appointed by the Niota Board of Mayor and Commissioners. The Zoning Officer shall administer and enforce this ordinance and, in addition, he/she shall:

- a. Issue all Building Permits (for a fee of \$50) and make and maintain records thereof.
- b. Issue all Certificates of Occupancy and make and maintain records thereof.
- c. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- d. Maintain and keep current zoning maps and records of amendments thereto.
- e. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The zoning officer shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his/her authorized duties.

#### **10.03 BUILDING PERMITS.**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, or to commence the filling of land until the zoning officer



has issued for such work a Building Permit containing a statement that the plans, specifications, and intended use of such structure in all respects conform with the provisions of this ordinance. No building permit shall be required for any construction development having a value of less than one thousand (\$1,000.00) dollars. Application for a Building Permit shall be made in writing to the zoning officer on forms provided for that purpose. It shall be unlawful for the zoning officer to approve the plans or issue a Building Permit for any excavation, construction, moving, or alteration until such plans have been inspected in detail by the Zoning Officer and found to be in conformity with this ordinance. To this end, the application for a Building Permit for excavation, construction, moving or alteration shall be accompanied by a plan or plat drawn to a scale and showing the following in sufficient detail, including the requirements found in Section 12-204 of the Niota City Code, to enable the zoning officer to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this ordinance:

- a. The actual shape, location, and dimensions of the lot to be built upon.
- b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot.
- c. Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the zoning officer shall issue a Building Permit for such excavation, construction, moving, or alteration. If an application for a building permit is not approved, the zoning officer shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provisions of this ordinance, and building permits shall be void after six (6) months from the date of issuance unless substantial progress on the project has been made by that time.

No building permit shall be issued for developments in the C-1, C-2, or I-1 districts until a Site Plan, as regulated in Article 4, Section 4.21 of this ordinance, has been approved.

#### **10.04 TEMPORARY USE PERMITS.**

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Niota Zoning Officer as provided in Article 4, Section 4.16 of this ordinance. Application for a Temporary Use Permit shall be made in writing to the zoning officer on the forms provided for that purpose.

#### **10.05 CERTIFICATE OF OCCUPANCY.**

No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the zoning officer shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the zoning officer to make a final inspection thereof, and to issue a Certificate of Occupancy, if the building or premises or part thereof is found to conform

with the provisions of this ordinance; or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

#### **10.06 PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW.**

The following procedure is established to provide procedures for review of a proposed use by the Planning Commission. This procedure shall also be used in submitting special exception for approval from the Board of Zoning Appeals.

1. **Application.** An application shall be filed with the Planning Commission for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Planning Commission or other sections of this ordinance may require.
2. **Restrictions.** In the exercise of its approval, the Planning Commission may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.
3. **Validity of Plans.** All approved plans, conditions, restrictions, and rules made a part of the approval of the Planning Commission shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all time.
4. **Time Limit.** All applications reviewed by the Planning Commission shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial, which will constitute a permit for a use permitted on review.

#### **10.07 CITY BOARD OF ZONING APPEALS.**

A Niota Board of Zoning Appeals is hereby established in accordance with § 13-7-205 through § 13-7-207 of Tennessee Code Annotated. The Board of Zoning Appeals shall consist of the membership of the Niota Municipal Planning Commission with terms concurrent with the Planning Commission.

1. **Procedure.** Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of application and action taken thereon which shall be public records.
2. **Appeals to the Board.** An appeal to the Niota Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the zoning officer based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The zoning officer shall transmit to the Board all papers constituting the record upon which the action

appealed was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

3. **Powers of the Board.** The Board of Zoning Appeals shall have the following powers:
  - a. **Administrative Review.** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the zoning officer or any other administrative official in the carrying out of the enforcement of any provision of this ordinance.
  - b. **Special Exceptions.** To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.
  - c. **Variiances.** To hear and decide applications for variances from the terms of this ordinance in accordance with Section 10.08.
4. **Public Hearing.** All cases brought to the Board of Zoning Appeals shall be preceded by an advertisement in a newspaper of general circulation within the city stating the date, time, location and subject matter the board will consider.

#### **10.08 VARIANCES.**

The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his/her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his/her property under this ordinance.

1. **Application.** After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.
2. **Hearings.** Upon receipt of an application and a fifty (\$50.00) dollar fee, the Board of Zoning Appeals shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his/her land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.
3. **Standards for Variiances.** In granting a variance, the Board shall ascertain that the following criteria are met:
  - a. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.

- b. Variances shall not be granted to allow for a use otherwise excluded from the particular district in which requested.
- c. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of *any* reasonable use of his/her land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.
- d. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
- e. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the applicant. Likewise, all the board should consider the availability of all other reasonable means for the applicant to comply with the provisions of the Zoning Ordinance.

#### **10.09 AMENDMENTS TO THE ORDINANCE.**

- 1. The regulations and the number, or boundaries of districts established by this ordinance, may be amended, supplemented, changed, modified, or repealed by the Niota Board of Mayor and Commission; but, in accordance with TCA § 13-7-204, no amendment shall become effective unless it is first submitted to and approved by the Niota Municipal Planning Commission or, if disapproved, shall receive a majority vote of the entire membership of the Niota Board of Mayor and Commission. Before finally adopting any such amendment, the Board shall hold a public hearing thereon, at least fifteen (15) days' notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in Niota.
- 2. An application by an individual for an amendment shall be accompanied by a fee of fifty (\$50) dollars payable to the City of Niota.

#### **10.10 PENALTIES.**

Any persons violating any provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars (\$5) nor more than fifty dollars (\$50) for each offense. Each day such violation shall continue constitutes a separate offense.

#### **10.11 REMEDIES.**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the zoning officer or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection,

construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**10.12 VALIDITY.**

Should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, this judgment shall not affect the validity of this ordinance as a whole or any other part than the part judged invalid.

**10.13 INTERPRETATION.**

Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or any other ordinance, the provisions which are more restrictive shall govern.

**10.14 EFFECTIVE DATE.**

This ordinance shall become effective after the final reading, and publication as required by law, the public welfare requiring it.

**PASSED ON FIRST READING:** \_\_\_\_\_  
**Date**

**PASSED ON SECOND READING:** \_\_\_\_\_  
**Date**

**PUBLIC HEARING ADVERTISED IN THE DAILY POST ATHENIAN:** \_\_\_\_\_

**DATE OF PUBLIC HEARING:** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**MAYOR  
CITY OF NIOTA**

**ATTEST:** \_\_\_\_\_  
**CITY RECORDER**