

TITLE 14

ZONING AND LAND USE CONTROL¹

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOODPLAIN ZONING ORDINANCE.
4. BUSINESS AND ADVERTISING SIGNS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, section 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1978 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1978 Code, § 11-102)

¹Charter reference: art. VI, § 1 (26).

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Mountain City shall be governed by Ordinance Number 1063, titled "Zoning Ordinance, Mountain City, Tennessee," and any amendments thereto.¹ (as amended by Ord. #1063, Oct. 2006)

¹Ordinance No. 1063, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

CHAPTER 3

FLOODPLAIN ZONING ORDINANCE

SECTION

- 14-301. Statutory authorization, findings of fact, purpose, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.

14-302. Statutory authorization, findings of fact, purpose and objectives.

(1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mountain City, Tennessee Mayor and Board of Aldermen, does ordain as follows:

(2) Findings of fact. (a) The Mountain City Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

(b) Areas of Mountain City are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (1978 Code, § 4-501, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-302. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-3D, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building," means any structure built for support, shelter, or enclosure for any occupancy or storage (See "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood

level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM) " means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM) " means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which

due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(34) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities; port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U. S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(41) "Levee system" means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood" see "base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

(54) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a

basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

(2) For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in National Geodetic Vertical Datum (NGVD) of 1929, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1978 Code, § 4-502, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-303. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Mountain City, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Mountain City, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47091C0130C, 47091C0131C, 47091C0133C, 47091C0140C, and 47091C0145C, dated June 16, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city of Mountain City, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Mountain City, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1978 Code, § 4-503, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-304. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage.

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article IV, Section B.

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood

maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-304(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-304(2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-304(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (1978 Code, § 4-504, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-305. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and,

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a

structure, openings sufficient to facilitate equalization of flood hydrostatic forces or both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-305(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior, walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

- (A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - (B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and
 - (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and
 - (iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.
- (d) Standards for manufactured homes and recreational vehicles.
- (i) All manufactured homes placed, or substantially improved, on:
 - (A) Individual lots or parcels;
 - (B) In expansions to existing manufactured home parks or subdivisions; or
 - (C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
 - (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or,
 - (B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.
 - (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-305(2)(d) of this chapter.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.)

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other

developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-305.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-305. Only if data is not available from these sources, then the following subsections (b) and (c) shall apply:

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty

feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-305(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones).

Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' -3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-305(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide

such certification to the administrator as set forth above and as required in § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or this highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A99 Zones) all provisions of § 14-304 and § 14-305(1) shall apply.

(8) Standards for unmapped streams. Located within Mountain City, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 14-304. (1978 Code, § 4-505, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-306. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Mountain City, Tennessee.

(1) Board of zoning appeals. (a) The Mountain City Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (i) The danger that materials may be swept onto other property to the injury of others;
- (ii) The danger to life and property due to flooding or erosion;
- (iii) The susceptibility of the proposed facility and its contents to flood damage;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(d) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #892, June 1995, and replaced by Ord. #1165, May 2009)

CHAPTER 4

BUSINESS AND ADVERTISING SIGNS

SECTION

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14-401. Purpose and intent. The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to protect the public health, safety, morals and general welfare. In addition, the intent of this chapter is as follows:

- (1) To encourage good design in the control of the overall image and visual environment of the town.
- (2) To protect property values, to enhance the appearance of the business community and to stimulate the economic vitality of Mountain City.
- (3) To ensure that signs are adequate, but not excessive, for the intended purpose of identification or advertisement.
- (4) To prohibit the erection of signs in such numbers, sizes, designs, and locations as may create danger to the public by obscuring road signs or by diverting the attention of motorists, or as may produce an environment that encourages visual blight.

(5) To prohibit signs which are likely to create unsafe conditions because of unsound structures or unsuitable locations.

(6) To avoid excessive competition for signs so that permitted signs provide identification and direction while minimizing clutter and unsightliness. (1978 Code, § 4-601, as replaced by Ord. #1152, Dec. 2008)

14-402. General premise. The general premise for the control of signs within the Town of Mountain City includes legibility, the effective display of information, the safety of passing traffic, and the coordination of signs with buildings, landscaping and other elements of the visual environment. In particular, signs should be designed and constructed as follows:

(1) For maximum legibility, signs should be designed appropriate to the legal speed of passing traffic.

(2) For size and dimensions, signs should be related to the frontage and setback of the building.

(3) The setback and size of signs should give a fair exposure to all commercial buildings in a given area.

(4) Signs should be integrated with the architecture of the buildings to which they relate, and with the necessary landscaping.

It is further the premise of this chapter that too many signs and too much information on signs create confusion, contribute to unsafe driving conditions, distract drivers and conflict with the intent of § 14-401 by creating visual clutter and unsightliness. This chapter seeks to encourage signs which avoid excessive information and which significantly contribute to the quality of their surrounding environment. (1978 Code, § 4-602, as replaced by Ord. #1152, Dec. 2008)

14-403. Minimum standards. The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (1978 Code, § 4-603, as replaced by Ord. #1152, Dec. 2008)

14-404. Definitions. (1) "Abandoned sign." A sign which identifies or advertises a discontinued business, lessor, owner, product or activity, that use having been discontinued for a period of thirty (30) days or more.

(2) "Animated sign." A sign which uses movement or change of lighting or other electrical impulse to depict action or create a special effect or scene.

(3) "Business directional sign or pointer." A sign located off-site which contains the name, indication of direction, and possibly the distance to the establishment or destination.

(4) "Business sign." A sign which primarily directs attention to a business or profession conducted on premise.

(5) "Canopy sign." A sign that is a part of or attached to an awning, canopy or other productive cover over a door, entrance, window, or outdoor service area.

(6) "Commercial signs." Signs advertising, calling attention to, identifying or otherwise aiding in the promotion of the sale of products, goods, services or events, any place or business, subject, person, firm, public performance, article, medicine, merchandise or building.

(7) "Marquee sign." A sign attached to, or made part of, a marquee or other permanent roof structure that projects beyond a building face and is not supported from the ground.

(8) "Off-premise advertising sign." A sign on which advertising or other matter may be displayed promoting goods, services or other things not sold or available upon the site where the sign is located. Off-premise signs may include billboards which are changeable signs.

(9) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility and the intention to be readily relocated and not permanently affixed to the ground or a structure. These signs ordinarily are used for short periods of time for promotional sales, grand openings, etc. Portable signs also include sidewalk signs, A-frame signs, and signs attached to or painted on a vehicle or trailer that is parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

(10) "Projecting sign." A sign, which is attached in a plane approximately perpendicular to the surface of the building or structure on which it is located.

(11) "Real estate signs." On-site or directional/pointer portable or permanent signs erected by the owner, or owner's agent, advertising the sale, rental or development of the parcel of land on which the sign is located, or providing direction to a property which is for sale, lease, rent, or development.

(12) "Sign." Any communication device, structure, placard, or fixture using any object, letter, figure, design, symbol, artistic display, trademark, flag or other device intended to call attention to, identify, advertise, or aid in the promoting of the sale of products, goods, services or events, any place, subject, person, firm, business, public performance, article, machine, merchandise, or building. The term "sign" shall not be deemed to include the term "building" or "landscaping" or any architectural embellishment of a building not intended to communicate information.

(13) "Sign area." The entire area within a joined continuous perimeter which encloses the extreme limits of writing, background, representation and other sign information, but the sign area shall not include any structural elements, other than the background, which are not an integral part of the display. For the purpose of computing the allowable sign area of a double-faced sign, only one (1) face shall be considered.

(a) "Wall sign." When the sign is composed of individual letters or symbols using a wall as a background with no added decoration, the total sign area shall be the sum of the areas of the smallest rectangles which close each individual letter or symbol. Otherwise, the wall sign area will be determined by the smallest geometric shape that encloses all borders, graphics and letters as a complete sign.

(b) "Free standing." The sign area shall be the area of the smallest rectangle or geometric shape that encloses the sign and its cabinet, but not the foundation, structural or architectural features.

(14) "Sign height." The height of a sign shall be computed as the difference between the average ground level at the base of the sign and the elevation of the uppermost extremity of the sign or sign support structure. (1978 Code, § 4-604, as replaced by Ord. #1152, Dec. 2008)

14-405. Permit required. (1) No sign, except for those signs listed in § 14-406 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter. When a sign permit has been issued, it shall also be unlawful to substantially modify a sign without prior approval of the building inspector. A written record of such approval shall be entered upon the original permit application and maintained in the permit record.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of this chapter, and with the requirements of the ICC Codes as amended for outdoor displays, and signs, including portable signs.

(3) A sign or sign structure which is replaced to show a new trade name, a new design, different color or other changes in shape, location or size shall require a permit.

(4) All commercial and business signs, outdoor signs, and subdivision entry signs for single family and multifamily developments must be approved by the planning commission before a sign permit is issued. (1978 Code, § 4-605, as replaced by Ord. #1152, Dec. 2008)

14-406. Permit exceptions. (1) The following operations shall not be considered as creating a sign, and therefore shall not require an additional sign permit:

(a) The changing of the advertised copy or message on an approved sign which is specifically designed for the use of replaceable copy;

(b) Painting, cleaning, and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary, emergency, and non-advertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constituted governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify rest rooms, location of public telephones, freight entrances, parking or the like with a total area not to exceed four (4) square feet. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are no larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, or designating private property, private drive, ATM, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(i) Temporary window signs, except as specified in § 14-405(3), internally mounted, that do not exceed twenty-five percent (25%) of the area of the window or any glass door to which they are attached. All window signs shall be in conformance with all applicable safety, building and electrical codes.

(j) Permanent window signs except as specified in § 14-405(3), internally mounted, that do not exceed ten percent (10%) of the area of the window or any glass door to which they are attached. All permanent window signs shall be in conformance with all applicable safety, building, and electrical codes.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official public notices. Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs

shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political signs. Political preference or campaign signs for federal, state, and local elections not exceeding six (6) square feet in residential zones and B-2 (Central Business District) or not exceeding thirty-two (32) square feet in all other non-residential zones may be erected or posted on any private lot, but not within the public right-of-way. Such signs must contain no commercial message in order to be exempt. Each sign must be removed within seven (7) days after the announced results of that nomination, election or referendum. Political signs larger than six (6) square feet displayed on or upon vehicles may not be located in public parking lots or spaces after 6:00 P.M. to dawn.

(c) Non-profit temporary signs. Temporary signs not exceeding six (6) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization, provided, that the sponsoring organization shall insure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month, and must be removed within seven (7) days of the end of a campaign or when the event has taken place.

(d) Real estate signs. Temporary, freestanding, real estate signs may be erected without a permit for any property that is offered for sale, lease or rent under the following conditions:

(i) Signs may be two-faced with the maximum total sign surface per sign face as follows:

Residential zones and B-2 (Central Business) - six (6) square feet.

All other business and manufacturing zones - thirty-two (32) square feet.

(ii) Real estate signs must be erected on private property and not on public right-of-way and shall not create any sight visibility hazard to motorists.

(iii) Such signs shall be removed within seven (7) days of the sale, rental or lease.

(iv) Directional or pointer real estate signs may be used off-site from the property for sale, lease or rental, however, such signs may not be in the public right-of-way and must be used in reasonable numbers. Directional signs must be removed on the same schedule as other real estate signs.

(v) One (1) sign is allowed per lot road frontage, however, property in excess of three (3) acres may include up to two (2) additional signs provided such signs are spaced at five hundred foot (500') intervals.

(vi) Properties for sale, lease, rent that do not have visual access from the nearest street or roadway, but can be seen from

streets further away, may have signs larger than six (6) square feet or thirty-two (32) square feet as specified in subsection (3)(d)(i) provided justification is presented and approval is issued in the form of a variance by the Mountain City Board of Zoning Appeals.

(e) Construction signs. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of twenty-five (25) square feet for each sign. The sign shall be confined to the site of the construction, and shall be removed within fourteen (14) days following completion of construction. Construction signs representing state and federal funding agencies that have certain size and wording requirements as a condition of funding are exempt from the above construction sign requirements.

(f) Temporary or portable signs. Temporary or portable signs may be exempt from permitting provided they meet the following conditions:

(i) Temporary signs such as "grand opening," "under new management," "Now hiring," "Going out of business," etc. shall be posted for a period not to exceed sixty (60) days.

(ii) Only one (1) temporary sign shall be displayed at a given time for a single business, and in locations with multiple tenants only two (2) signs total may be displayed per lot at the same time.

(iii) Except as designated in subsection (3)(f)(vii) below, the total sign area per sign shall not exceed nine (9) square feet per side.

(iv) Signs may not be placed on public sidewalks or right-of-ways except in the B-2 Zone or as authorized in special event applications approved by the board of mayor and aldermen. No temporary sign authorized may be placed to cause a site distance problem, obstruction or a hazard.

(v) Temporary signs must be set back a minimum of ten feet (10') from the public right-of-way.

(vi) Temporary or portable signs must be located on the same premise or lot in which the business activity is taking place.

(vii) Portable A-boards or "sandwich board" signs may only be displayed during business hours. These signs must be located on-premises or in the B-2 zone or immediately in front of the business being promoted. Portable A-boards or "sandwich board" signs must be placed so they do not block pedestrian or vehicular traffic and where they do not create a safety hazard.

(viii) Business owners shall notify the building inspector of any placement of a portable sign upon their premise in order that the allowable time period can be observed and enforced.

(ix) Temporary or portable signs advertising such happenings as "Grand Opening, Under New Management, Going Out of Business," shall not exceed thirty-two (32) square feet, unless they are located one hundred feet (100') or more from the edge of the public street pavement where they can be larger upon approval of the board of zoning appeals. Such signs may be displayed only one (1) time in a twelve (12) month period.

(x) Temporary signs meeting the sixty (60) days criteria must be taken down by the next morning the day immediately after the sixty (60) days has expired.

(xi) Any existing non-conforming temporary or portable sign shall be discontinued or be brought into compliance no later than thirty (30) consecutive calendar days from the effective date of this ordinance comprising this chapter. (1978 Code, § 4-606, as replaced by Ord. #1152, Dec. 2008)

14-407. Prohibited signs. The following signs are prohibited from being erected or maintained in any zoning district and in any area of the Town of Mountain City:

(1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.

(2) Any portable sign, except as provided for in § 14-406(3)(f).

(3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.

(4) Any sign that violates any provision of the ICC Codes unless specifically authorized otherwise in this chapter.

(5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.

(6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.

(7) Any animated sign that by movement or by other method or manner of illumination, flashes on or off, winks, strobes, blinks with varying light or color intensity, except signs meeting the following criteria:

(a) The sign is located on property in a B-2 Zone.

(b) If the sign is an electronic variable message sign, the sign owner must submit an executed agreement stating that the business understands the associated conditions in which this type sign can be used and agrees to comply with them.

(c) The sign does not attempt or appear to attempt to direct the movement of traffic, or which interferes with, imitates, or resembles any official traffic sign, signal or device.

(d) Duration of message on-time. On-time duration of an acceptable commercial electronic variable message sign should be fifteen (15) seconds for a sign panel with three (3) lines, and having twenty (20) characters per line; however, regardless of the number of lines and characters, the total length of the information cycle or the on-time period must be no less than four (4) seconds.

(e) If the sign face changes the size must have changing text; signs that display information cycles without changing text are prohibited.

(f) The sign does not have a running message with continuous movement.

(g) If the light intensity of the sign changes, it only occurs in two (2) "on" and "off" cycles during a twenty-four (24) hour period based on daylight and darkness.

(h) The brightness of the sign lumination does not cause disability glare or discomfort glare.

(i) The sign changes message, electronically or mechanically, by the appearance of complete substitution or replacement of one display by another, and in which the appearance of movement during the message display, or of messages appearing to move across the display face, is not present. Use of animated, chasing, scintillating, traveling, moving, or dissolving displays in which part or all of a message displayed on the sign appears to be moving is prohibited. Messages that appear to be written on or erased off the display face one (1) letter or one (1) word at a time or piecemeal, rather than all at once, are prohibited.

(j) In order for the message to be conveyed to the motorist quickly, clearly and unambiguously, the sign character size, spacing, and typeface must be appropriate based on the associated speed limit, sign location, and environmental factors.

(8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.

(9) Any sign that is attached to a tree.

(10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements, such traffic and safety related signs as deemed necessary by the public works director, and signage, banners, flags, etc. approved on street lamps by the board of mayor and aldermen or designated committee or other such body created by the board of mayor and aldermen.

(11) Any sign, which by reason of its location, position, size, shape or color may obstruct, impair, obscure, interfere with the view of, or be confused

with any traffic control signs, signal or device, or where it may interfere with, mislead or confuse traffic, and is deemed to be a safety hazard by the building inspector or the public works director.

No sign shall use the words "Stop," "Slow," "Caution," "Yield," "Danger," "Warning," or "Go" when such sign may be confused with a traffic control sign used or displayed by a public authority.

(12) Inflatable signs, including helium or other gas which is contained within the sign, or sign parts, at a pressure greater than atmospheric pressure making it able to float.

(13) Any off-premise signs, except real estate directional signs, political signs, outdoor signs, public service/civic event signs, garage sale signs, and off-premise directional signs authorized in § 14-412 of this chapter.

(14) Any commercial sign supporting any business, etc. as defined in § 14-406(3) "commercial signs" of this chapter, that is not within the Town of Mountain City except as may be permitted through billboards.

(15) Any sign that exhibits statements, words or pictures of a racial, offensive, or obscene nature.

(16) Any sign that has sign copy that misrepresents the business use or activities being carried out on the property represented by said sign.

(17) Abandoned or dilapidated signs.

(18) Roof signs, or signs extending beyond the main roof line, unless specifically approved by the Mountain City Planning Commission.

(19) Any commercial sign located in a residential district not otherwise provided for in this chapter.

(20) Any sign that has not been permitted as required, or whose permit has been revoked.

(21) Signs which are made structurally sound by guy wires or unsightly bracing.

(22) Signs which contain reflective material, except as approved in § 14-406.

(22) Signs which advertise an activity, business, product or service not conducted on the premises upon which the signs is located, except as specifically permitted through this chapter. (1978 Code, § 4-607, as replaced by Ord. #1152, Dec. 2008)

14-408. Sign locations. Commercial signs shall be located on the property in which they are intended to promote. No commercial signs shall be on public right-of-way except as permitted by the State of Tennessee or the Mountain City Planning Commission. In addition, the following limitations apply.

(1) No signs on medians or public right-of-way. No political, real estate, civic, or other non-public exempt signage shall be posted or erected on highway medians, islands, or along public right-of-way. Mountain City Parks and Recreation, appropriate work or construction signage, and other town signage approved by the board of mayor and aldermen may be located on

medians provided the signage meets all state guidelines and all safety requirements. Unapproved signs in the public right-of-way will be removed by either the public works department or building inspector.

(2) Spacing. All permanent freestanding signs on any premise shall be spaced at minimum two hundred foot (200') intervals along each public way that views the premises, unless otherwise provided for in this chapter. Electronic variable message signs must be located a minimum of five hundred feet (500') apart.

(3) Sight distance triangle. All entrance signs and free standing signs located near the corners of an intersection, shall be located outside of the "sight distance triangle." The "sight distance triangle" is a triangle shaped area that is measured at a distance of thirty-five feet (35') running parallel to each intersecting street or roadway and the line connecting them to form a triangle. This area shall be free of any permanent or temporary signs that may inhibit clear sight visibility from motorist. Any exceptions must be approved by the State Department of Transportation and/or the Mountain City Planning Commission.

(4) Setback. All permanent signs shall be setback at least seven and one-half feet (7 1/2') from the edge of the street or public right-of-way, unless otherwise specified in this chapter. No permanent sign shall be located within a public utility or drainage easement unless authorized by the Mountain City Planning Commission and the utilities involved. Temporary signs shall be located at least ten feet (10') from the edge of the street or public right-of-way.

(5) Authority for placement. No sign and/or sign structure shall be erected on any property without the express permission of the property owner or his agent. Upon request of the building inspector, such permission granted must be made in writing. (1978 Code, § 4-608, as replaced by Ord. #1152, Dec. 2008)

14-409. Illumination/electrical compliance. Illuminated signs or signs with electricity shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zone.

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light illuminated only the sign and does not become a safety hazard or a visual nuisance.

(2) No sign shall have blinking, flashing, strobe, or fluttering lights or other illuminating devices which have a changing light intensity, or brightness or color, beacon lights are not permitted.

(3) No colored lights, (especially red, yellow and green) shall be used at any location in any manner so as to be confused with or construed as a traffic signal device.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public streets and thoroughfares.

(5) All signs having electrical wiring shall bear a seal of approval of Underwriters Laboratory (UL) or are other nationally recognized electrical testing laboratory. Each sign with electrical wiring must have an outside disconnect. Where appropriate, label numbers shall be registered with the building inspector at the time a sign permit is issued. (1978 Code, § 4-609, as replaced by Ord. #1152, Dec. 2008)

14-410. Structural requirements. All signs shall meet the structural requirements for same as set forth in the ICC Codes. (1978 Code, § 4-610, as replaced by Ord. #1152, Dec. 2008)

14-411. Inspection, maintenance and removal. (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this and other ordinances of Mountain City.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive condition.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the ICC Building Code, the owner, person, or firm maintaining the sign shall, upon written notice of the building inspector, within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the ICC Codes.

(4) The building inspector may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the ICC Codes. (1978 Code, § 4-602, as replaced by Ord. #1152, Dec. 2008)

14-412. Off-premise advertising signs. Off-premise advertising signs, also commonly referred to as billboards or poster panels, but can also be any sign which advertises products, businesses, or services primarily not connected with the site or building on which the sign is located, shall be prohibited in all zones, with the following exceptions.

Signs indicating the existence of a commercial, recreational, organizational or institutional establishment not located on the parcel in which the sign is located on the following conditions;

(1) There is an established need for the off-premise sign due to topographic or other verified constraints on the property being advised.

(2) The presence of the off-premise sign can be shown to relieve confusion of motorists, traffic congestion, etc. and thus be shown to improve driver safety.

(3) There is a proper location for the off-premise sign which has the approval of the property owner.

(4) Only one (1) sign, with two (2) faces, is erected.

(5) The sign size, type, location and other specifications meets the guidelines established for the zone in which it is erected.

(6) The sign receives a variance from the Mountain City Board of Zoning Appeals. (1978 Code, § 4-611, as replaced by Ord. #1152, Dec. 2008)

14-413. Nonconforming signs. The continued existence of signs which are nonconforming is inconsistent with the stated intent and premise of this chapter as outlined in § 14-401. It is the desire of the board of mayor and aldermen, in recognition of the importance to the quality of life of Mountain City residents, that nonconforming usage of signs not tend to flourish indefinitely, and in perpetuity. The following regulations related to nonconforming signs are hereby established to the extent allowable under state law:

(1) Any legal nonconforming non-temporary signs located in a residential zone shall be discontinued or brought into compliance pursuant to this chapter not later than five (5) years from the date of the ordinance comprising this chapter.

(2) Any legally nonconforming temporary sign shall be discontinued or be brought into compliance within thirty (30) days.

(3) Commercial signs which do not conform to the regulations and restrictions prescribed in this chapter, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain in place only so long as the existing use which they advertise or identify remains, except that the advertising copy on a lawfully nonconforming marquee sign or off-premise billboard sign may be changed.

(a) No nonconforming commercial sign, except for billboards, may be structurally altered or changed in any manner, nor shall it be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign, unless the sign change or restructuring results in the sign now being in conformity with the applicable regulations of this ordinance.

(b) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee State Law or through the Mountain City Zoning Ordinance, then the sign which advertises or identifies that use shall also become an ,unlawful sign and subject to abatement/removal.

(4) A nonconforming sign shall not be enlarged, expanded, extended or structurally altered so as to create additional nonconformity or to increase the

extent of the existing nonconformity. This section shall not be construed to prohibit the changing of the copy area, provided that there is no increase in the copy area or height, or change in the sign area framework, and provided that no portion of the sign is located within the right-of-way or under any electrical line.

(5) Nonconforming signs shall be brought into compliance once a change in use of the premises occurs.

(6) No nonconforming sign shall be moved on the same lot nor to another lot, in whole or in part, without the approval of the Mountain City Planning Commission, and unless the moving will relocate the sign into a zoning district or any area in which it will conform, or unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(7) In the event that a nonconforming sign is destroyed or is allowed to become dilapidated to the extent of fifty percent (50%) or more of the current cost to replace the sign, including labor and materials, the sign shall not be reconstructed or repaired, and the owner of the sign shall be required to remove the sign, regardless of other provisions contained in this chapter, unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(8) A nonconforming sign or sign structure shall be removed if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building appraised value.

(9) A sign displaying no message for ninety (90) days or signs on property in which an activity, business product or service which has not been produced, conducted or sold for a period of ninety (90) days on the premises which the sign is located shall be considered abandoned and all rights to maintain the sign shall be terminated.

(10) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign, and for sign structure through routine maintenance defined as repairing, repainting or refinishing the surface of the existing sign face or sign structure so as to maintain the appearance.

(11) Under no circumstances shall a sign deemed by the building inspector to be illegal at the time of the adoption of this chapter, be considered a legally nonconforming sign.

(12) Any sign given a variance by the Mountain City Board of Zoning Appeals that is not in compliance with regulations subsequently adopted in this chapter shall be considered in conformity provided that the area(s) of non-conformity resulting from changes in this chapter are the same areas allowed under the variance previously provided. (1978 Code, § 4-612, as replaced by Ord. #1152, Dec. 2008)

4-614. Sign regulations by district. The following regulations shall apply to all signs which require a permit by the provisions of this chapter. The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) Residential districts. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit with the exception of subsections (b), (c), (g), (h), and (h) below. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by subsection (a) above, a thirty-two (32) square foot sign may be permitted to identify the name of a single family development at the major entrance thereto. Sign areas larger than thirty-two (32) square feet must be approved by the board of zoning appeals.

(c) One (1) non-permanent sign not exceeding thirty-two (32) square feet in area, advertising a subdivision development and located therein adjacent to any street bounding such development may be permitted; provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. At the end of any two (2) year period, a renewal of the permit shall be obtained from the building inspector. One (1) off-site sign not exceeding thirty-two (32) square feet may be permitted subject to the conditions and approvals established in § 14-412 above.

(d) Permitted signs may be located anywhere on the premises beyond the seven and one-half foot (7 1/2') setback.

(e) Freestanding signs shall be ground mounted and shall extend no more than eight feet (8') above the ground including any part of the supporting members.

(f) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property when the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(g) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one (1), thirty-two (32) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(h) One (1) sign not exceeding thirty-two (32) square feet in area shall be allowed for each public owned building and use, public and private schools and churches located in a residential zone. Upon approval of the Mountain City Planning Commission and if appropriate the State of Tennessee, off-site signage to public buildings, schools, and churches may be permitted.

(2) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial use located in any commercial district.

(a) Building mounted signs on buildings housing one or more tenants shall not exceed a total of one (1) square foot of sign area on the building for each linear foot of building frontage occupied by each tenant. No individual tenant shall exceed one hundred (100) square feet. Large retailers with one (1) or more internal business components such as video, pharmacy, cafe, bakery, etc., intending to advertise on the external building wall, will be considered as one (1) or more tenants within the building complex and total sign area combined will be based on the linear feet of building frontage.

(i) Wall signs on canopies or marquees shall be no more total square footage than is allowed for a sign on a flat building wall.

(ii) Buildings set back from the roadway more than two hundred feet (200') may have larger wall mounted building signage provided that the sign layout is submitted and approved by the Planning Commission.

(iii) The planning commission may at its discretion allow larger wall mounted building signage in trade-off for a reduction in sign area on any associated freestanding sign related to the same business.

(b) Building mounted signs may be located anywhere on the surface of the building and may project not more than one foot (1') therefrom.

(c) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof.

(d) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than nine feet (9') above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven feet (7') in height.

(e) Freestanding signs shall be ground mounted-monument signs, and shall not exceed one hundred (100) square feet of sign area. Freestanding signs shall be set back a minimum of seven and one-half feet (7 1/2') from all property lines and shall not exceed a height of fourteen feet (14') above ground level including supports. Multiple tenant commercial buildings with seven (7) or more tenants may apply for an additional eleven (11) square feet of sign area for each additional tenant above six up to a maximum of one hundred forty-four (144) square feet. The board of zoning appeals may consider variances to sign height, sign

area, and sign number requirements provided justification is submitted on one (1) or more of the following considerations:

(i) The topography around the sign creates visibility issues.

(ii) Existing landscaping creates visibility issues and it is the desire to maintain existing trees and shrubs.

(iii) Visibility, ingress and egress can be better served with more than one (1) sign.

(iv) There is a substantial sign setback.

(v) The site layout of the development lends itself to justifying a larger sign.

(f) Projecting signs may be used in lieu of a freestanding sign.

When projecting signs are used, the following conditions apply:

(i) All projecting signs shall have a minimum clearance of eight feet (8') above a walkway and fifteen feet (15') above a driveway or alley.

(ii) One (1) projecting sign is permitted for each ground floor business, or at the entrance to upper level businesses.

(iii) Area. The sign may have a maximum of ten (10) square feet per business, or where multiple businesses are signed, the total square footage of all signs in one grouping may not exceed ten (10) square feet.

(iv) Location. On a single story building, no projecting sign shall be higher than fifteen feet (15') nor shall such sign project above the cornice line of its supporting building or above the parapet wall or mansard wall to which it is attached. On a multi-story building, no projecting sign shall extend above the lower sill line of the second floor windows. No projecting sign shall interfere with any part of a window or other architectural opening.

(v) No projecting sign shall extend more than four feet (4') from the wall of its supporting structure.

(g) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or other entertainment available on the same property where the sign is located, except as may be specifically permitted in other sections of this chapter.

(h) One (1) building mounted sign per street frontage per tenant is permitted. One (1) freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the products or services they primarily advertise and they shall be subject to § 14-411.

(i) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(4) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of three hundred (300) square feet. Where the frontage is on more than one (1) street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if they do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine feet (9') above a walkway and fifteen feet (15') above a driveway or alley.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof; except where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five feet (5') above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of one hundred seventy-five (175) square feet, have a minimum setback of five feet (5'), and not exceed fourteen feet (14') in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (1978 Code, § 4-613, as replaced by Ord. #1152, Dec. 2008)

14-415. Sign permit requirements. (1) Commercial signs, subdivision signs, and signs for multi-family developments shall be approved by the Mountain City Planning Commission prior to a permit being issued.

(2) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(3) Any sign erected under permit shall indicate the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(4) It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(5) Commercial establishments using temporary or portable commercial signs must notify the building inspector in advance of the size being displayed. (1978 Code, § 4-614, as replaced by Ord. #1152, Dec. 2008)

14-416. Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector or the planning commission may require to insure compliance with the ordinance of the town. Any sign located within the Town of Mountain City shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Mountain City Planning Commission shall determine any questions concerning the conformity of a sign. (1978 Code, § 4-615, as replaced by Ord. #1152, Dec. 2008)

14-417. Fees for sign permits. (1) A nominal fee to cover administrative cost shall be charged for each sign permit issued.

(2) The building inspector or representative may charge double sign permit fees for any permit application that is not obtained prior to the beginning of sign construction at its intended location. (1978 Code, § 4-616, as replaced by Ord. #1152, Dec. 2008)

14-418. Nullification. (1) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(2) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector. (1978 Code, § 4-617, as replaced by Ord. #1152, Dec. 2008)

14-419. Variances/appeals. (1) Except for instances relating to signs or sign structure located or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur an expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of this chapter.

(2) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street, the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance, the board of zoning appeals shall limit the areas of such signs to that which in its opinion is reasonably in keeping with the provisions of this chapter.

(3) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(4) The board of zoning appeals shall hear and decide applications for variance by reason of exceptional topographical conditions, practical difficulties, or undue hardships caused by strict application of the ordinance for additional signs, sign area, sign height and sign location. (1978 Code, § 4-618, as replaced by Ord. #1152, Dec. 2008)

14-420. Violations/existing signage. Existing signage that is in violation of this chapter and was in violation of the previous sign ordinance shall continue to be in violation and shall have no implied right to exist in its urgent status as result of it being located in its current site for any extended period of time with no enforcement action. (1978 Code, § 4-619, as replaced by Ord. #1152, Dec. 2008)

14-421. Parties responsible for violations. The building inspector may determine the lessor of a property in which a sign is located that is not in compliance with this chapter; or the property owner in which the illegal sign is located; or both to be in violation. (as added by Ord. #1152, Dec. 2008)

14-422. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #1152, Dec. 2008)