

TITLE 14
ZONING AND LAND USE CONTROL

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Commission established.
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14-101. Commission established. Pursuant to the enabling legislation of the State of Tennessee, Tennessee Code Annotated, title 14 chapter 4, a municipal planning commission, consisting of seven (7) members and designated as Sparta Planning Commission, is hereby established. (1978 Code, § 11-101, as replaced by Ord. #04-784, Oct. 2004)

14-102. Mayor or a person designated by the mayor to be a member of commission. One of the members of the planning commission shall be the mayor of the municipality or a person designated by the mayor. This member's term shall run concurrent with the mayor's then term in office and shall serve at the pleasure of the mayor if the member is designated. (1978 Code, § 11-102)

14-103. Powers, duties of commission. The duties, functions and powers of the planning commission shall consist of the functions and powers provided by law and of such further duties and powers consistent therewith as from time to time may be imposed and delegated to it by the board of mayor and aldermen. (1978 Code, § 11-103)

14-104. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1978 Code, § 11-104)

CHAPTER 2

GENERAL ZONING PROVISIONS¹

SECTION

- 14-201. Definitions.
- 14-202. Official zoning map.
- 14-203. Replacement of zoning map.
- 14-204. Rules for interpretation of district boundaries.
- 14-205. Application of district regulations.
- 14-206. Nonconformities.
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- 14-208. Reserved.
- 14-209. Corner lots in residential districts.
- 14-210. Visibility at intersections in certain districts.
- 14-211. Servicing, storage, repair, or sales of motor vehicles.
- 14-212. Schedule of district regulations adopted.

14-201. Definitions. For the purposes of chapters 2 through 14 of this title, certain terms or words used herein shall be interpreted as follows:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (3) The word "shall" is mandatory, the word "may" is permissive.
- (4) The words "used" or "occupied" include the words "intended, or arranged to be used or occupied."
- (5) The word "lot" includes the words "plot or parcel."
- (6) "Accessory use or structure." A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

¹The zoning provisions set out in this title in chapters two through fourteen are taken from the zoning ordinance dated May 1, 1974. Some of the catchlines have been slightly changed and the sections and subsections have been renumbered. Otherwise, only such minor changes in the wording as necessary to adapt the zoning ordinance to this code have been made. It is the intention of the board in adopting chapters two through fourteen herein to continue in effect the provisions of the above-referred-to zoning ordinance. It is expressly not intention of the board to hereby enact any new zoning regulations.

Where the context requires, the designation "chapters 2 through 14 of this title" shall mean Ord. #12 of May 1, 1974.

(7) "Dwelling, two-family." A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

(8) "Dwelling, single-family." A detached residence designed for or occupied by one family only.

(9) "Dwelling, multiple-family." A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

(10) "Family." One or more persons occupying a single non-profit housekeeping unit.

(11) "Lot." A piece, parcel, or plat of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings and including the open spaces required under chapters 2 through 14 of this title.

(12) "Lot frontage." The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yard" in this section.

(13) "Lot measurements." (a) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the rear.

(b) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each yard, provided, however, that width between side lot lines at their forepoints (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of the cul-de-sacs, where the 80 percent requirements shall not apply.

(14) "Lot of record." A lot which is part of a subdivision recorded in the office of the clerk of the circuit court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(a) "Corner lots." A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(b) "Interior lot." A lot other than a corner lot with only one frontage on a street other than an alley.

(c) "Through lot." A lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as "double frontage" lots.

(d) "Reversed frontage lot." A lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

(15) "Mobile home." A mobile home is a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundation, connection to utilities and the like.

(16) "Mobile home park." A portion or parcel of land designed for or which is intended to be used to accommodate nine (9) or more mobile homes.

(17) "Mobile home subdivision." A mobile home subdivision is a subdivision designed and intended for residential use where residence is in mobile homes exclusively.

(18) "Special exception." A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to the number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in chapters 2 through 14 of this title.

(19) "Street line." The right-of-way line of a street.

(20) "Structure." Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

(21) "Variance." A variance is a relaxation of the terms of chapters 2 through 14 of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of chapters 2 through 14 of this title would result in unnecessary and undue hardship. As used in chapters 2 through 14 of this title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

(22) "Yard." A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

(23) "Yard, front." A yard extending between side lots lines across the front of a lot.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and ten feet.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage; a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the codes enforcement officer shall determine the front yard requirements, subject to the following limitations:

(1) At least one front yard shall be provided having the full depth required generally in the district;

(2) No other front yard on such lots shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

(24) "Yard, side." A yard extending from the rear line of the required front yard to the rear lot line.

In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full and half-depth front yards have been established shall be considered to be side yards.

Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

(25) "Yard, rear." A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the

rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half depth front yard.

Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear line of a required rear yard shall be parallel to the straight line so established.

(26) "Portable commercial structure." A portable commercial structure is a building designed for transportation, after fabrication, in one or more pieces, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be used substantially complete and ready to use except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundation, connection to utilities, and the like.

(27) "Buffer strip or screening." A greenbelt planted not less than ten (10) feet in width. Such green belt planted strip shall be composed of one (1) row of evergreen trees, spaced not more than twenty (20) feet apart, and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet in height.

(28) "Telecommunication support structure or support structure." Any structure or building other than a tower which can be used for location of telecommunication facilities.

(29) "Telecommunication tower or tower." Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, personal communications service (PCS) towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for residential, non-commercial individual use, such as television antennas, satellite dishes, or amateur radio antennas. (1978 Code, § 11-201, as amended by Ord. #02-756, Nov. 2002)

14-202. Official zoning map. The city is hereby divided into zones, or districts, as shown on the official zoning map,¹ which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of chapters 2 through 14 of this title.

¹The board of mayor and aldermen adopted a new zoning map by Ord. #549, March 1983. This map has been amended by Ords. #552; 556; 567; 583; 591; 602; 603; 619; 626; 627; 628; 629; 630; 632; 635; 637; 91-641; 91-669; 94-670; 95-673; 00-727, 00-728, 00-729; 02-750; 02-751; 04-786; 05-803; 06-805; 06-806; 06-807; 06-809; and 06-810.

The official zoning map shall identified by the signature of the mayor, attested by the city recorder, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map referred to in § 14-202 of the Sparta Municipal Code," together with the date of the adoption of chapter 2 through 14 of this title.

If, in accordance with the provisions of chapters 2 through 14 of this title and Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the board of mayor and aldermen, together with an entry on the official zoning map as follows: "On _____, _____, by official action of the board of mayor and aldermen, the following changes were made in the official zoning map."

The amending ordinance shall provide that such changes or amendments shall not become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in chapters 2 through 14 of this title. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of chapters 2 through 14 of this title and punishable as provided under the general penalty clause for this code.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city. (1978 Code, § 11-202)

14-203. Replacement of official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the board of mayor and aldermen may by ordinance adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city recorder, and bearing the seal of the town under the following words: "This is to certify that this official zoning map supersedes and replaces the official map adopted _____, _____, as part of title 14 chapters 2 through 14 of the Sparta Municipal Code." (1978 Code, § 11-203)

14-204. Rules for interpretation of district boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) Boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such center lines;

(6) Boundaries indicated as parallel to, or extensions of, features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the board of zoning appeals shall interpret the district boundaries. (1978 Code, § 11-204)

14-205. Application of district regulations. The regulations set by chapters 2 through 14 of this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

(a) To exceed the height;

(b) To accommodate or house a greater number of families;

(c) To occupy a greater percentage of lot areas; or

(d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of chapters 2 through 14 of this title.

(3) No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with chapters 2 through 14 of this title, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other use.

(4) No yard or lot existing at the time of passage of chapters 2 through 14 of this title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards of lots created after the effective date of chapters 2 through 14 of this title shall meet at least the minimum requirements established by chapters 2 through 14 of this title.

All territory which may hereafter be annexed to the city shall be considered to be zoned in the same manner as the contiguous territory inside previous city limits until otherwise classified. (1978 Code, § 11-205)

14-206. Nonconformities. The purpose of this section is to establish regulations and limitations on the continued existence of uses, lots, and structures established prior to the effective date of this zoning code which do not conform to the provisions of this zoning code. For the purposes of this section, the following definitions shall apply:

"Nonconforming lot:" A parcel or lot of land at the time of enactment of this zoning ordinance or at the time of its annexation into the corporate limits, and which does not conform to the area requirements of the district or zone in which it is located.

"Nonconforming use:" A building, structure, or use of land existing at the time of enactment of this zoning ordinance or at the time of its annexation into the corporate limits, and which does not conform to the district or zone in which it is located.

Any nonconforming lot, structure, or use of land or structure which existed lawfully at the time of the enactment of this zoning code and which remains nonconforming and any lot, structure, use, or use of structure which shall become nonconforming upon enactment of this zoning code or any subsequent amendments thereto may be continued subject to the provisions of this section. To avoid undue hardship, nothing in this zoning code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this zoning code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(1) Nonconforming lots. (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this zoning code, a single-family dwelling and customary accessory building may be erected on any single lot of record as of the enactment of this zoning code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the

requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the board of zoning appeals.

(b) If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this zoning code, and if all or part of the lots do not meet the requirements for lot width and area established by this zoning code, the lands involved shall be considered to be an undivided parcel for the purposes of this zoning code, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this zoning code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this zoning code.

(c) Where buildings and structures are presently lawful in accordance with the yard, lot size, and building setback requirements of this zoning ordinance, but would be rendered unlawful due to alterations in rights-of-way for streets and alleys which are instituted by or expressly approved by the City of Sparta and/or the State of Tennessee, whether by condemnation or acceptance of right-of-way conveyance, the yard, lot size and building setback requirements of this zoning ordinance shall not be applied and enforced to prohibit or otherwise decree as unlawful such buildings and structures. Nothing herein shall be construed so as to permit any building or structure to be erected after such an alteration in violation of the provisions of this zoning ordinance.

(2) Change of nonconforming use. (a) Change to another nonconforming use of the same classification. An existing nonconforming use of a structure may be changed to another nonconforming use of the same classification, activity type or any other activity type or major class of activity; provided, however, that establishment of another nonconforming use shall be subject to the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require to protect the area. However, a change in occupancy or ownership shall not, by itself, constitute a change of use.

(b) Change to a conforming use. A nonconforming use may be changed to any conforming use, and the applicable lot area regulations and off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use. Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

(3) Expansion of structures with nonconforming uses. (a) Any nonconforming use may be extended throughout any parts of a building

which were manifestly arranged or designed for such use at the time of adoption or amendment of this zoning code.

(b) Nonconforming industrial, commercial, or business uses may construct additional facilities that would allow the operations of the establishments to be expanded provided there is enough space to meet the area requirements of the district and provided it is done in accordance with the provisions of Section 13-7-208 of the Tennessee Code.

(c) The property on which the expansion will take place must be owned by the industry or business situated within the area which is affected by the change in zoning. The acquisition of additional land for the purpose of expanding an existing nonconforming industry or business is prohibited.

(4) Demolition, destruction, and reconstruction. (a) Nonconforming industrial, commercial or other business establishments shall be allowed to demolish present facilities and reconstruct new facilities necessary to the conduct of such industry or business when in accordance with the provisions specified in Section 13-7-208 of the Tennessee Code and provided that new facilities are utilized for the same land use that was previously allowed, and provided that the new facilities meet minimum yard requirements, maximum lot coverage requirements, and general parking requirements.

(b) Any nonconforming structure or structure used for a nonconforming use that is destroyed by fire or other natural disaster may be reconstructed to the point of use and size at the time the disaster occurred provided all provisions of Section 13-7-208 of the Tennessee Code are met.

(c) A building permit for the reconstruction of a nonconforming structure or a structure used for a nonconforming use must be obtained within six (6) months of the date of demolition or destruction of the structure. Any reconstruction must be completed within twelve (12) months of the date of the issuance of the building permit.

(5) Discontinuance or abandonment. When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued or abandoned for a period of twelve (12) consecutive months (regardless of any reservation of intent not to abandon and to resume such use) such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structure shall comply with the regulations of the zoning district in which such land or structure is located.

(6) Maintenance, repairs, alterations, enlargement and movement.

(a) Any nonconforming structure may be maintained, repaired, altered or enlarged; provided however, that no such maintenance, repair, alteration or enlargement shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

(b) Nothing in this zoning code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(c) A nonconforming structure shall not be moved in whole or in part, for any distance, to any other location on the same or any other lot unless the entire structure shall thereafter conform with the regulations of the zoning district in which it is located after being moved.

(7) Uses permitted on appeal (special exceptions) not nonconforming uses. Any use for which a special exception is permitted as provided in this zoning code shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. (1978 Code, § 11-206, as replaced by Ord. #03-764, Feb. 2003)

14-207. Design requirements for parking spaces and lots. Parking spaces and lots shall be designed and constructed in accordance with the following minimum standards and requirements.

(1) Off-street parking spaces shall be of dimensions conforming to the standards shown on the following illustration, "Parking Space and Aisle Design Requirements", but in no case shall be less than nine (9) feet in width and nineteen (19) feet in length.

(2) Design requirements. The design requirements for parking spaces and aisles located within a parking lot are shown on the following illustration, illustration of parking, "Parking Space and Aisle Design Requirements" in § 14-207 of this zoning code.

Except on lots occupied by single family and two family dwellings, no parking spaces shall be designed so that a vehicle is required to back onto a public street or alley.

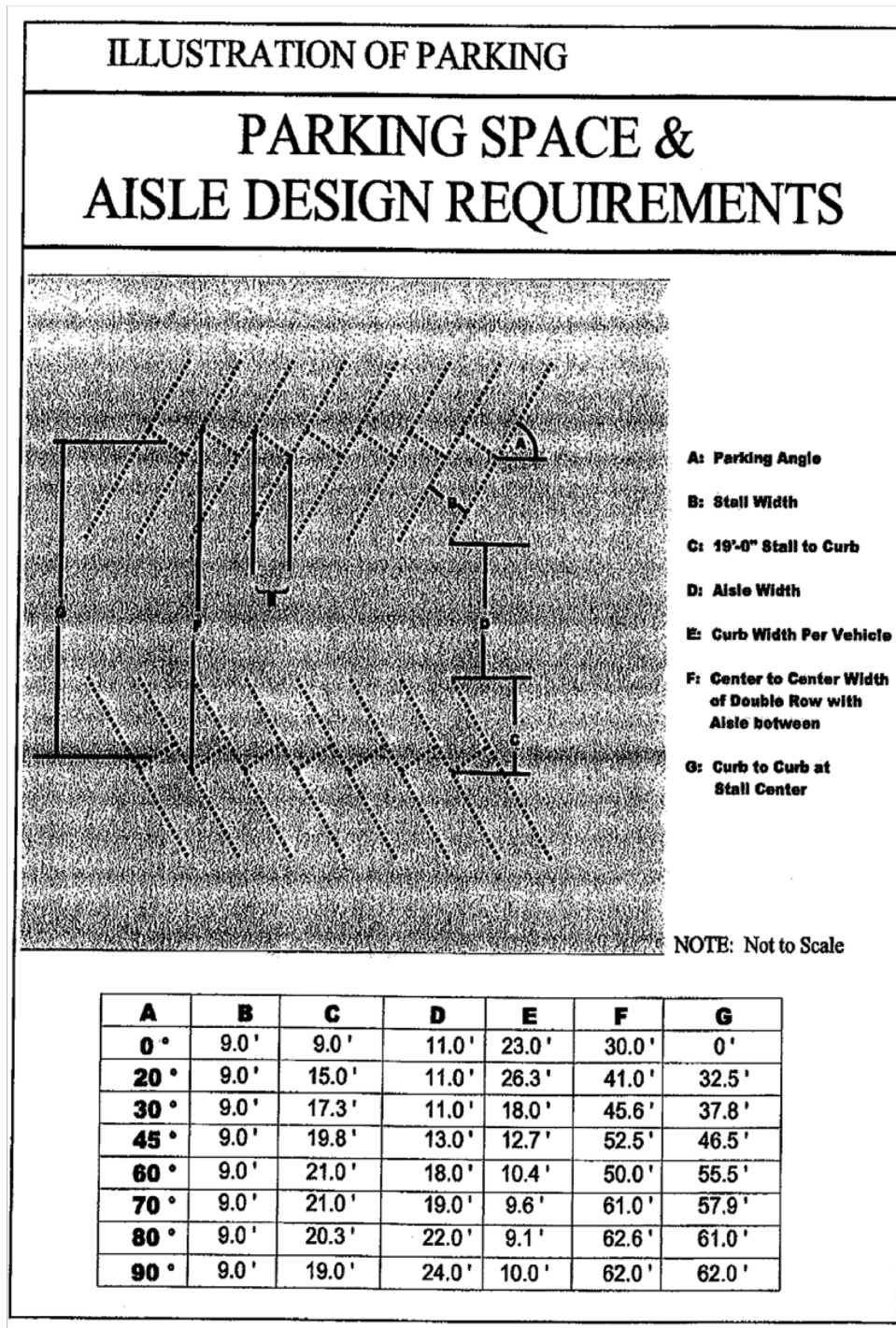
(3) Surfacing requirements. Parking lots and driveways shall be surfaced with Portland cement concrete or asphaltic concrete, as specified in the Sparta Subdivision Regulations, and be so constructed to provide for adequate drainage and prevent the release of dust.

(4) Grades. Grades within the paved area of a parking lot shall at no place be less than one (1) percent or more than five (5) percent.

Grades of driveways or entrances from a public street serving a parking lot shall at no point exceed eight (8) percent. Single- and two-family dwellings are not subject to the requirements of this section.

(5) Curbing. Continuous curbing or individual wheel stops shall be provided where the front of a parking space is adjacent to the perimeter of the parking lots.

(6) Lighting. Any lighting used to illuminate off-street parking lots shall be so arranged to prevent direct glare onto any public or private property, or streets.



(1978 Code, § 11-207, as replaced by Ord. #03-764, Feb. 2003; and Ord. #04-783, Oct. 2004)

14-208. Reserved. (1978 Code, § 11-208, as replaced by Ord. #03-764, Feb. 2003)

14-209. Corner lots in residential districts. Where corner lots in residential districts are platted in such a manner as to change the normal yard pattern along either of the intersecting streets, the required front yard shall be provided across the end of the lot fronting on the street, and a yard equivalent to at least half of the front yard requirements, but in no case measuring less than fifteen (15) feet from the street line, shall be provided along the full length of the lot on the side toward the intersecting street. No portion of any main or accessory building shall encroach on this yard. (1978 Code, § 11-209)

14-210. Visibility at intersections in certain districts. (1) On corner lots in any district where front or side yards are required, no obstruction to vision shall hereafter be planted, allowed to grow, parked, placed or erected in such a manner as materially to impede visibility between a height of two feet (2') and ten feet (10') above the grade of the intersecting streets within that triangle formed by the curb lines (or the shoulder of the road where no gutter exists), of the intersecting streets drawn from the apex of the intersecting curb lines back a distance of fifty feet (50') with a line drawn between said points to form a base, such area to be herein referred to as a clear site zone.

(2) If warranted, the city administrator is authorized, upon approval of the property owner, to change the dimensional layout of the fence or placement of other interfering items for purposes of obtaining maximum visibility as long as the same square footage of buffer is utilized. (1978 Code, § 11-210, as replaced by Ord. #16-901, Oct. 2016 *Ch13_12-18-18*)

14-211. Servicing, storage, repair, or sales of motor vehicles. The following limitations shall apply to structures and uses involving the servicing, storage, repair, or sales of motor vehicles:

(1) No public street, parking area, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles.

(2) No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.

(3) All motor vehicles being handled, stored or repaired by such establishments shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in item (4), below.

(4) No repair of motor vehicles or parts thereof shall be made except within garages, service stations, body shops or other buildings used for such purposes. (1978 Code, § 11-211)

14-212. Schedule of district regulations adopted. District regulations shall be as set forth in the schedule of district regulations, hereby adopted by reference and declared to be part of chapters 2 through 14 of this title, and in §§ 14-209--14-211 of this title. For the purpose of chapters 2 through 14 of this title and as shown on the official zoning map, Sparta, Tennessee, is hereby divided into ten (10) use districts as follows:

Residential A Districts - (Single Family)

Residential B Districts - (Multiple Family)

Residential-Commercial Districts - (Residential-Multi-Use)

Commercial A Districts - (Transition Business)

Commercial B Districts - (Neighborhood Shopping)

Commercial C Districts - (Central Business)

Commercial D Districts - (General Business)

Industrial M-1 Districts - (Manufacturing-Industry)

Flood Plain District

Historic H-1 Districts - (Historic Overlay Zone)

(1978 Code, § 11-212, as amended by Ord. #99-716, May 1999)

CHAPTER 3

RESIDENTIAL A DISTRICTS

SECTION

- 14-301. Residential A Districts.
- 14-302. Uses permitted.
- 14-303. Uses permitted on appeal.
- 14-304. Uses prohibited.
- 14-305. Minimum lot requirements.
- 14-306. Minimum yard requirements.
- 14-307. Maximum height.
- 14-308. Minimum off-street parking requirements.
- 14-309. Signs and billboards.

14-301. Residential A Districts. Within the Residential A Districts (Single-Family) as shown on the official zoning map, the following regulations in this chapter shall apply. (1978 Code, § 11-301)

14-302. Uses permitted. Uses permitted shall include the following:

- (1) Single-family detached dwellings.
- (2) Public elementary and high schools and private schools having courses of study approximately the same as public elementary and high schools.
- (3) Buildings used exclusively by federal, state, county or local governments for public purposes.
- (4) Churches and other places of worship, including Sunday schools.
- (5) Parks, playgrounds and playfields.
- (6) Farms, nurseries, truck gardens, non-commercial greenhouses and other customary agricultural uses and structures.
- (7) The taking of boarders or renting of rooms by a resident family, provided that the total number of boarders and roomers does not exceed two.
- (8) Private garages, tool sheds, and other accessory uses and structures customarily incidental to residential or other permitted uses when located on the same property with the following provisions:
 - (a) Except for attached private garages, which shall not project beyond the front of the main building, all accessory buildings shall be located behind the main building and further provided that on no lot shall any structure be built closer than five (5) feet to any lot line.
 - (b) Customary home occupations, such as the offices of physicians, architects, or engineers, or artist's studios, are permitted provided that:
 - (1) Such occupation shall be carried on within the main building;

(2) Not more than one person not resident on the premises shall be employed;

(3) Such occupation shall be clearly incidental and secondary to the use of the building for residential purposes;

(4) The external appearance of the building shall not be changed as a result of the conduct of the occupation, and there shall be no external evidence of such occupation on the buildings or grounds except that a small professional notice or sign, not exceeding one square foot in area, may be mounted against the side of the building. (1978 Code, § 11-302)

14-303. Uses permitted on appeal. After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

(1) Private hospitals, clinics and sanitariums,

(2) Golf courses,

(3) Cemeteries,

(4) Temporary structures and field offices, provided that such permit shall not be for a term of more than six months.

(5) Private clubs, lodges and lodge halls, excepting those in which the conduct of commercial affairs plays a major part.

(6) Child day care facilities, subject to specific requirements of chapter 18.

(7) Telecommunication towers and support structures. (1978 Code, § 11-303, as amended by Ord. #99-724, Nov. 1999, and Ord. #02-756, Nov. 2002)

14-304. Uses prohibited. Any use not specifically permitted or permissible on appeal is prohibited. (1978 Code, § 11-304)

14-305. Minimum lot requirements. Minimum lot requirements shall be:

(1) Lot area: 10,000 sq. ft.

(2) Lot width: 80 ft.

(3) Lot coverage (by all buildings): 35 percent

(1978 Code, § 11-305)

14-306. Minimum yard requirements. Minimum yard requirements shall be:

(1) Front: 30 ft.

(2) Side: 12 ft. for either side (see § 14-209)

(3) Rear: 30 ft.

(1978 Code, § 11-306)

14-307. Maximum height. Maximum height shall be:

(1) Residence: 30 feet or 2 stories.

(2) Other permitted structures: 50 feet; 4 stories, provided that for other structures, in addition to general yard requirements, one foot shall be added to required front and side yards for each foot of height over thirty (30) feet. (1978 Code, § 11-307)

14-308. Minimum off-street parking requirements. Minimum off-street parking requirements shall be as follows:

- (1) Dwellings: One off-street parking space for each dwelling unit.
- (2) Schools: One off-street parking space for each staff member, plus one off-street parking space for each ten (10) fixed seats in auditoriums or for each 100 square feet of floor space in assembly rooms with movable seats.
- (3) Churches, Sunday schools: One off-street parking space for each five (5) fixed seats or for each 50 square feet in assembly rooms with movable seats.
- (4) Public buildings: One off-street parking space for each regular employee plus adequate parking space for public use.
- (5) Hospitals, clinics: One off-street parking space for each two beds. (1978 Code, § 11-308)

14-309. Signs and billboards. No signs, billboards, posters, bulletin boards or other similar matter shall be permitted except as follows:

- (1) Announcements and professional signs as provided for in connection with home occupations.
- (2) Only one sign, not exceeding six (6) square feet in area to advertise the premises on which such sign is displayed for sale, rent or lease, provided that such sign shall not be placed closer than ten (10) feet to any property line.
- (3) One bulletin board not exceeding ten (10) square feet in area may be erected by any church.
- (4) Official public notices may be erected at appropriate locations on property affected. (1978 Code, § 11-309)

CHAPTER 4

RESIDENTIAL B DISTRICTS

SECTION

- 14-401. Residential B Districts.
- 14-402. Uses permitted.
- 14-403. Uses permitted on appeal.
- 14-404. Uses prohibited.
- 14-405. Minimum lot requirements.
- 14-406. Minimum yard requirements.
- 14-407. Maximum height.
- 14-408. Minimum off-street parking requirements.
- 14-409. Signs and billboards.
- 14-410. Zero lot-line/two family dwelling regulations.

14-401. Residential B Districts. Within the Residential B Districts (Multiple-Family) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-401)

14-402. Uses permitted. Any structure or use permitted in Residential A Districts shall be permitted, and in addition the following uses shall be permitted:

- (1) Two-family dwellings.
- (2) Multiple-family dwellings.
- (3) Tourist homes, boarding and lodging houses.
- (4) Any accessory use or building customarily incidental to the above permitted uses.
- (5) Mobile homes in mobile home parks only. (1978 Code, § 11-402, modified)

14-403. Uses permitted on appeal. After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

- (1) Private clubs and lodges, excepting those in which the conduct of commercial affairs plays a major part.
- (2) Adult trade schools, business and commercial schools, and night schools.
- (3) Child day care facilities, subject to specific requirements of chapter 18.
- (4) Telecommunication towers and support structures. (1978 Code, § 11-403, as amended by Ord. #99-724, Nov. 1999, and Ord. #02-756, Nov. 2002)

14-404. Uses prohibited. Any use not specifically permitted or permissible on appeal is prohibited. (1978 Code, § 11-404)

14-405. Minimum lot requirements. Minimum lot requirements shall be:

(1) Lot area: One family dwelling, 7000 square feet; each additional dwelling unit, 2500 square feet.

(2) Lot width: 70 feet

(3) Lot coverage (by all buildings): 40 percent

(1978 Code, § 11-405)

14-406. Minimum yard requirements. Minimum yard requirements shall be:

(1) Front: 25 feet

(2) Side: 10 feet for either side (see § 14-209)

(3) Rear: 20 feet. (1978 Code, § 11-406)

14-407. Maximum height. Maximum height shall be as follows:

(1) Residences: 35 feet or 3 stories

(2) Other permitted uses: same as for Residential A Districts. (1978 Code, § 11-407)

14-408. Minimum off-street parking requirements. Minimum off-street parking requirements shall be the same as for Residential A Districts for uses listed thereunder, and for additional uses as follows:

(1) Multiple-family dwellings, boarding and lodging houses: one off-street parking space for each rental unit or dwelling unit.

(2) Private clubs and lodges: one off-street parking space per 300 square feet of gross floor area. (1978 Code, § 11-408)

14-409. Signs and billboards. Regulations concerning signs and billboards for Residential B Districts shall be the same as for Residential A Districts, and in addition, not more than two signs with a total area of not more than six square feet for any one establishment may be placed, indicating the name and nature of the establishment and the kind of accommodations offered. Such sign may be mounted on the front or side of establishment, or in front or side yards, provided that no sign shall be placed closer than ten feet to any property line. (1978 Code, § 11-409)

14-410. Zero lot-line/two family dwelling regulations. (1) The provisions set forth herein are intended to apply to all zero lot-line two-family detached dwellings as defined by this ordinance. It is the express purpose of these provisions to establish design criteria and to provide for the implementing of these provisions by the planning staff in the review of the site plan. Within

the R-B Zoning District, zero lot-line dwellings may be located upon appropriate zone lots, and such dwellings may be subdivided by party wall into two separate zone lots provided that a site plan of such development is approved by the planning commission along with necessary subdivision plat(s). In granting approval of the site plan, the planning commission shall be guided by the following:

(2) Minimum size and ownership. a. No property with zero-lot line development consideration shall be less than two (2) acres in size. At the time of application, the entire tract of land for which development is requested shall be under the control of a single individual, partnership or corporation.

(3) Design criteria. Minimum requirements shall be:

(a) Other than the zero lot-line separating the two dwelling units, all other minimum lot and yard requirement cited within this section shall be met.

(b) No zero side yard shall be adjacent to any public or private right-of-way.

(c) No portion of a dwelling or architectural feature of a structure shall project over any property line.

(d) Where the same interior property line is utilized for the construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum space of two (2) inches.

(e) Where the same interior property line is utilized as a party wall to divide any two-family dwelling, all the provisions of the Standard Building Codes or international building code shall be met, and all required fire walls shall have a rating of not less than two (2) hour duration.

(f) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit a spread of fire.

(g) All two-family detached units shall be designed to closely resemble in appearance the surrounding housing units in the immediate neighborhood. Particular attention should be paid to locating only one entrance door servicing the front of the structure whenever feasible.

(h) Exterior building materials shall be of the same type and quality of other dwelling units in the neighborhood or on adjoining lots.

(i) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks and landscaping shall be provided for the protection an aesthetic enhancement of the development and the privacy of the occupants.

(j) The appearance and character of the site shall be preserved as appropriate and enhanced by retaining and protecting existing trees and other site features.

(k) Individual water and sewer service shall be individually metered and with dedicated easements provided for the each lot/unit and meet all city and state regulations.

(l) All current requirement of the NFPA fire code must be satisfied.

(4) Deed covenants. Information relating to covenants shall be as follows:

(a) An agreement covering the status, including the ownership, maintenance, etc. of the common wall separating the units and zone lots.

(b) Adequate language to assure proper maintenance of any portion of the structure where maintenance must be shared. If the correction of a maintenance problem incurred in a dwelling unit situated on a single zone lot (on one parcel) necessitates construction work or access on the dwelling unit or structure of the adjoining parcel, either parcel owner shall have an easement on the property of the other for the purpose of the construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts of omissions.

(c) Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which was originally approved. Such language shall so specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner which would have the effect of negating the unified plan under which original approval was granted and language indicating that the purchaser of any such parcel understands that in no instance within any R-B zoning district will any such parcel or zone lot be viewed as a separate, independent parcel for zoning purposes, other than for the purpose or specific use of serving as a separate lot upon which only a portion of a two-family dwelling is located.

(d) Adequate language covering any and all cross access and utility easements that are necessary to assure the proper use and maintenance of all ingress and egress areas, as well as all utility services.

(e) If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it. If the other owners thereafter make use of the wall, they shall contribute to the cost of the restoration thereof in proportion to such use without prejudice. However, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions. Either parcel owner shall have an easement on the property of the other for the purpose of reconstruction and protection of the remaining unity from the elements.

- (5) Minimum lot size requirements. The lot size shall be:
- (a) One hundred (100%) percent larger than the foundation foot print. Each dwelling unit must be a minimum of 1,200 square feet of heated living space.
- (6) Minimum yard/building setback requirements. Minimum setbacks shall follow:
- (a) Front Setback: 25 Feet
 - (b) Side Yard Setbacks: Side yard must be a minimum of 7.5 Feet. No setback or side yard requirement for zero lot-line division of two dwelling unit.
 - (c) Rear Setback: 20 Feet
 - (d) Accessory Structure Setback: 5 feet from side or rear yard.
- (7) Maximum height. Maximum height shall be as follows:
- (a) Dwelling Unit/Building: 35 Feet
- (8) Street and right-of-way standard. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section D under "Streets".
- (9) Utility standards. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section E under "Utilities".
- (10) Minimum off-street parking requirement. Minimum off-street parking shall be as follows:
- (a) Off street parking shall be provided on site convenient to the dwelling unit.
 - (b) Two (2) spaces shall be provided per dwelling unit.
 - (c) Where appropriate, common driveways, parking areas, walks, ramps and steps shall be provided and maintained and lighted for night use.
 - (d) All driveways and parking areas shall be paved.
- (11) Landscaping, screening and buffer requirements. b. The "Landscaping, Screening and Buffer Yard" requirements in chapter 20 of the zoning ordinance shall apply.
- (12) Drainage and storm water management. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section G under "Drainage".
- (13) Site plan requirements. c. The development requiring a grading and building permit shall conform the § 14-1304 "Site Plan Requirements" of the zoning ordinance.
- (14) Traffic study required. d. A traffic study shall be prepared and submitted to the planning commission for the development in excess of 50,000 SF of total floor space if determined by the building inspector as necessary.
- (15) Sign regulations. e. The sign/billboard requirements of 14-4A10 (Residential/Commercial District-R/C) of the "zoning ordinance" shall apply.
- (16) Administration. f. In zero lot-line/two family dwellings structure subdivisions, rather than filing a preliminary plat for review by the planning

commission as required in the typical process of reviewing subdivisions, a site plan must be presented and approved by the planning commission. Before any construction of the two-family dwellings foundation and footings can begin, the accurate survey points must be established for all common walls on site. Once this procedure is completed, final plats can be presented for approval by the planning commission as the construction of such structures continues. (as added by Ord. #05-789, April 2005, and amended by Ord. #05-793, July 2005)

CHAPTER 4A

RESIDENTIAL/COMMERCIAL (R/C) DISTRICTS

SECTION

- 14-4A01. Residential commercial districts.
- 14-4A02. Uses permitted.
- 14-4A03. Uses permitted by special exception.
- 14-4A04. Storage areas for solid waste.
- 14-4A05. Uses prohibited.
- 14-4A06. Minimum lot requirements.
- 14-4A07. Minimum yard requirements.
- 14-4A08. Maximum height.
- 14-4A09. Minimum off-street parking requirements.
- 14-4A10. Signs and billboards.

14-4A01. Residential/commercial districts. Within the residential commercial districts as shown on the official zoning map, the regulations of these sections shall apply. (Ord. #99-716, May 1999)

14-4A02. Uses permitted. Any uses permitted in Residential A shall be permitted, and in addition the following uses shall be permitted, with no building exceeding three thousand (3,000) square feet in gross floor space and there shall be no storage nor display on the lot or exterior of the building other than signage allowed under § 14-4A10:

- (1) Offices.
- (2) Studios.
- (3) Clinics and similar professional uses. (Ord. #99-716, May 1999)

14-4A03. Uses permitted by special exception. After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit, with no building exceeding three thousand (3,000) square feet in gross floor space and there shall be no storage nor display on the lot or exterior of the building other than signage allowed under § 14-4A09, the following:

- (1) Neighborhood retail stores and markets including the following types of stores: food; general merchandise; apparel; furniture; household and hardware; radio and television; drug and sundries; jewelry and gifts; florists; sporting goods; and similar services.
- (2) Neighborhood services including the following: barber and beauty shops; shoe repair, restaurants, radio and television repair, and similar uses.
- (3) Laundry and dry cleaning establishments where no flammable or toxic chemicals are used. Anyone wishing to establish a dry cleaning facility

must provide proof that the chemicals used in the cleaning processes are not flammable or toxic.

(4) Telecommunications towers and support structures. (Ord. #99-716, May 1999, as amended by Ord. #02-756, Nov. 2002)

14-4A04. Storage areas for solid waste. All storage areas for solid waste must be screened, secured from animals, not located on public property including public streets and sidewalks, and must be accessible to the city sanitation department. (Ord. #99-716, May 1999)

14-4A05. Uses prohibited. Uses not specifically permitted or permitted on appeal in §§ 14-4A02 and 14-4A03. (Ord. #99-716, May 1999)

14-4A06. Minimum lot requirements. Minimum lot requirements shall be as follows:

(1) Residential use: Ten thousand (10,000) square feet with a minimum lot width of eighty (80) feet and lot coverage of not more than thirty-five (35) percent.

(2) Commercial use: Ten thousand (10,000) square feet with a minimum lot width of eighty (80) feet and lot coverage of not more than thirty-five (35) percent. (Ord. #99-716, May 1999)

14-4A07. Minimum yard requirements. Minimum yard requirements shall be:

(1) Front: 30 ft.

(2) Side: 12 ft. for each side

(3) Rear: 30 ft. (Ord. #99-716, May 1999)

14-4A08. Maximum height. Maximum height from highest buildable grade to roof peak: thirty-five (35) feet or three (3) stories. (Ord. #99-716, May 1999)

14-4A09. Minimum off-street parking. (1) Residential: Two (2) off-street parking spaces for each dwelling unit.

(2) Schools: One (1) off-street parking space for each staff member, plus one off-street parking space for each ten (10) fixed seats in auditoriums or for each one-hundred (100) square feet of floor space in assembly rooms with movable seats.

(3) Churches, places of worship, and Sunday schools: One (1) off-street parking space for each five (5) fixed seats or for each fifty (50) square feet in assembly rooms with movable seats.

(4) Public buildings: One (1) off-street parking space for each regular employee plus adequate parking space for public use.

(5) Hospitals, clinics: One (1) off-street parking space for each two beds or each examining room table.

(6) Restaurants: One (1) off-street parking space per one hundred (100) square feet of gross floor area.

(7) Commercial, offices, and personal services: One (1) off-street parking space per two hundred (200) square feet of gross floor area. (Ord. #99-716, May 1999)

14-4A10. Signs and billboards. (1) Regulations concerning signs and billboards shall be the same as Residential A districts, and in addition, not more than two (2) signs with a total area of not more than six (6) square feet for any one establishment may be placed indicating the name and nature of the establishment and the kind of accommodations offered. Such sign may be mounted on the front or side of the establishment, or in front or side yards, provided that no sign shall be placed closer than ten (10) feet to any property line.

(2) No source of incandescent lighting used for illuminating signs shall be directly visible from any street or highway, or from any room used for sleeping in any residence or other place in which such room may be located. No red or green illumination in connection with any sign or means of attracting attention to any establishment shall be so located as to create the possibility of confusion with any traffic signal, and the chief or police shall be consulted in any case where a question of this kind arises before any permit for the erection of such a sign or illumination shall be granted. (Ord. #99-716, May 1999)

CHAPTER 5

COMMERCIAL A DISTRICTS

SECTION

- 14-501. Commercial A Districts.
- 14-502. Uses permitted.
- 14-503. Uses permitted on appeal.
- 14-504. Uses prohibited.
- 14-505. Minimum lot requirements.
- 14-506. Minimum yard requirements.
- 14-507. Maximum height.
- 14-508. Minimum off-street parking and off-street loading requirements.
- 14-509. Signs and billboards.

14-501. Commercial A Districts. Within the Commercial A Districts (Transition Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-501)

14-502. Uses permitted. (1) Offices, clinics and other professional uses, such as architect, engineer, surveyor, accountant, attorney, insurance, real estate, optical, dentist, etc.

(2) Single-family and duplex dwellings.

(3) Churches and accessory uses, subject to site plan review by planning commission.

(4) Funeral home, subject to site plan review by planning commission.

(5) Library or senior citizens center, subject to site plan review by planning commission.

(6) Child care operations, subject to site plan review by planning commission, and meeting all specific regulations thereof.

(7) Specific retail uses and services allowed are gift shop, jewelry shop, apparel shop, antique shop, bakery, floral shop, furniture shop, interior decorating shop, photography studio, craft shop, art gallery/supplies, shoe repair, beauty/barber shop--All with no outside storage or display of merchandise outdoors.

(8) Single-family zero-lot line, attached and detached cluster developments, and condominiums subject to the following:

(a) Submittal to and approval of the planning commission of a site plan depicting the location of all proposed structures and improvements.

(b) Access to individual parcels shall be provided from internal streets or parking areas constructed to serve a particular development unless otherwise approved by the planning commission. Standards for parking, access, spacing of structures and site improvements shall be as

for the RZD, Residential Zero-Lot Line District as specified in Chapter 23 of this Zoning Code.

(c) Minimum lot area requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be calculated on the overall land area of a particular site provided a restriction is placed on the final subdivision plat prohibiting resubdivision that would alter the overall site density.

(d) Minimum lot width requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the planning commission.

(e) Minimum front setback requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the planning commission for internal streets constructed to serve a particular development.

(f) The maximum number of dwelling units shall be computed by multiplying the gross acreage to be developed by ten (10), excluding any area to be developed as a church, school, child care center, or commercial use (as approved by the planning commission). (1978 Code, § 11-502, as amended by Ord. #99-724, Nov. 1999, Ord. #00-730, Sept. 2000, and Ord. #19-924, July 2019 ***Ch14_04-21-22***)

14-503. Uses permitted on appeal. (1) Residential care home for aged,

- (2) Supplementary/accessory occupation within a residential dwelling,
- (3) Multi-family residential structures,
- (4) Bed and breakfast or tea room,
- (5) Schools,
- (6) Auction barns/houses, may be permitted on appeal.
- (7) Telecommunication towers and support structures.
- (8) Eating and drinking establishments. (1978 Code, § 11-503, as amended by Ord. #00-730, Sept. 2000, Ord. #01-734, April 2001, and Ord. #02-756, Nov. 2002, and Ord. #13-875, May 2013)

14-504. Use prohibited. (1) Retail/wholesale sales uses not listed as permitted or on appeal.

- (2) Gas stations and convenience markets,
- (3) Grocery store,
- (4) Used and new car (and other vehicles) sales, parts sales or repair.
- (5) Mobile homes, mobile home parks and mobile home sales.
- (6) Game room, flea market, tattoo parlor.
- (7) Any other uses not specifically permitted or permissible on appeal are prohibited, unless a specific use is judged by board of zoning appeals as

being similar to a listed use. (1978 Code, § 11-504, as amended by Ord. #00-730, Sept. 2000, and Ord. #01-734, April 2001)

14-505. Minimum lot requirements. Minimum lot requirements shall be as follows:

- (1) Residential use: Same as for Residential B Districts.
- (2) Other permitted uses: 7,000 square feet. (1978 Code, § 11-505)

14-506. Minimum yard requirements. Minimum yard requirements shall be:

- (1) Front: 20 feet
- (2) Side: 10 feet
- (3) Rear: 20 feet

(1978 Code, § 11-506)

14-507. Maximum height. Maximum height shall be the same as for Residential B Districts. (1978 Code, § 11-507)

14-508. Minimum off-street parking and off-street loading requirements. Minimum off-street parking and loading requirements shall be as follows:

- (1) Residential use: same as for Residential B Districts.
- (2) Other permitted uses: one off-street parking space per 200 square feet of gross floor area. Rear or side yard shall be used for loading and unloading. (1978 Code, § 11-508)

14-509. Signs and billboards. Sign and billboard regulation shall be the same as for Residential B Districts. (1978 Code, § 11-509)

CHAPTER 6

COMMERCIAL B DISTRICTS

SECTION

- 14-601. Commercial B Districts.
- 14-602. Uses permitted.
- 14-603. Uses permitted on appeal.
- 14-604. Uses prohibited.
- 14-605. Minimum lot requirements.
- 14-606. Minimum yard requirements.
- 14-607. Maximum height.
- 14-608. Minimum off-street parking and off-street loading.
- 14-609. Signs and billboards.

14-601. Commercial B Districts. Within the Commercial B Districts (Neighborhood Shopping) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-601)

14-602. Uses permitted. Any structure or use permitted in Commercial A District (except that all residential uses shall be prohibited in this district) shall be permitted and in addition:

(1) Neighborhood retail stores and markets, including the following types of stores: food; general merchandise; apparel; furniture; household and hardware; radio and television; drug and sundries; jewelry and gifts; florists; sporting goods; and similar uses.

(2) Neighborhood services including the following: barber and beauty shops; shoe repair, restaurants and similar uses.

(3) Any accessory use or building customarily incidental to the above permitted uses.

(4) Child day care facilities, subject to specific requirements of chapter 18.

(5) Single-family zero-lot line, attached and detached cluster developments, and condominiums subject to the following:

(a) Submittal to and approval of the planning commission of a site plan depicting the location of all proposed structures and improvements.

(b) Access to individual parcels shall be provided from internal streets or parking areas constructed to serve a particular development unless otherwise approved by the planning commission. Standards for parking, access, spacing of structures and site improvements shall be as for the RZD, Residential Zero-Lot Line District as specified in Chapter 23 of this Zoning Code.

(c) Minimum lot area requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be calculated on the overall land area of a particular site provided a restriction is placed on the final subdivision plat prohibiting resubdivision that would alter the overall site density.

(d) Minimum lot width requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the Planning commission.

(e) Minimum front setback requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the planning commission for internal streets constructed to serve a particular development.

(f) The maximum number of dwelling units shall be computed by multiplying the gross acreage to be developed by twelve (12), excluding any area to be developed as a church, school, child care center, or commercial use (as approved by the planning commission). (1978 Code, § 11-602, as amended by Ord. #99-724, Nov. 1999, and Ord. #19-924, July 2019 *Ch14_04-21-22*)

14-603. Uses permitted on appeal. The following uses may be permitted on appeal:

(1) Service stations; provided, however, the gasoline storage above ground in excess of five hundred (500) gallons is prohibited, and provided there is no major auto repair.

(2) Laundry and dry cleaning establishments.

(3) Residential use incidental to and not inconsistent with commercial use otherwise permitted by this chapter, provided that such residential use shall be by the owner or employee of the commercial establishment at the site of the requested required use and that residential use will not be detrimental to or inconsistent with other uses in the immediate area thereof.

(4) Light industry where the proposed use, in the opinion of the board of zoning appeals, will not be detrimental to the area in which it is located. In determining the suitability of the proposed use, the board of zoning appeals may study the particular nature of the use with regard to parking, emergency services, employment, environmental conditions such as noise, smoke, gas, vibrations, fumes, dust or other objectionable conditions, storage of combustible materials and such other factors as may, under the circumstances, be pertinent to whether the proposed use is compatible with the surrounding area.

(5) Telecommunication towers and support structures.

(6) After public notice and hearing, subject to appropriate safeguards and conditions and approval by the Sparta Board of Zoning Appeals, the board of zoning appeals may permit construction of a new building or rehabilitation of an existing building in the Commercial B Neighborhood Shopping District for

multi-family residential/apartment uses or mixed commercial-multi-family residential uses.

When reviewing applications for such uses, the board of zoning appeals shall consider the overall effect of the proposal to the area and surrounding properties so that there will not be a detrimental effect to the stability and viability of the district.

In determining the effect of the proposal to the area, the board of zoning appeals must evaluate the number of units proposed, availability of off-street parking, provisions for solid waste storage, availability of utilities, and the city's capacity to respond effectively to emergencies.

In addition, the following conditions must also be met:

(1) Site plan and floor plans must be submitted to the board of zoning appeals.

(2) Off-street parking must be provided at a ratio of 1.5 spaces per unit, located within a reasonable walking distance, and designed so that no vehicle is required to back onto a public thoroughfare.

(3) A minimum square footage per dwelling unit of 500 square feet for a one-bedroom unit, 675 square feet for a two-bedroom unit, and 900 square feet for a three-bedroom unit must be provided.

(4) All municipal building and fire codes must be adhered to.

(5) Storage areas for solid waste must be screened, secured from animals, not located on public property including public streets and sidewalks, and must be accessible to the city sanitation department. (1978 Code, § 11-603, as amended by Ord. #02-756, Nov. 2002)

14-604. Uses prohibited. Uses not specifically permitted or permitted on appeal in § 14-603. (1978 Code, § 11-604)

14-605. Minimum lot requirements. It is the intent of chapters 2 through 14 of this title that lots of sufficient area and width be used for any business or service use to provide adequate parking and loading space in addition to the space required for the normal operations of the business or service. (1978 Code, § 11-605)

14-606. Minimum yard requirements. Minimum yard requirements shall be:

(1) Front: 20 feet

(2) Rear: 20 feet

(3) Side: None, except wherever this district adjoins a residential district without an intervening street or alley, a side yard shall be provided on the side adjoining the residential district corresponding in its dimensions to those required in the residential district. (1978 Code, § 11-606)

14-607. Maximum height. Maximum height shall be 35 feet or 3 stories. (1978 Code, § 11-607)

14-608. Minimum off-street parking and off-street loading. Minimum off-street parking and off-street loading requirements shall be as follows:

(1) Restaurants: one off-street parking space per 100 square feet of gross floor area.

(2) Commercial and personal services, offices: one off-street parking space per 200 square feet of gross floor area. Adequate off-street loading space shall be provided so that no part of any commercial vehicle shall encroach upon any street, alley, sidewalk, or public way during loading, unloading, or servicing operations. (1978 Code, § 11-608)

14-609. Signs and billboards. Signs and billboards are permitted to the following limitations:

(1) All signs and billboards except those erected by governmental agencies shall be erected on private property and shall not encroach upon any public street, walk, alley or way, provided that such signs when approved by the city may be erected to overhang a public street, walk, alley or way at a height not less than nine feet.

(2) No source of incandescent lighting used for illuminating signs shall be directly visible from any street or highway, or from any room used for sleeping in any residence, hotel, or other place in which such room may be located. No red or green illumination in connection with any sign or means of attracting attention to any establishment shall be so located as to create the possibility of confusion with any traffic signal, and the chief of police shall be consulted in any case where a question of this kind arises before any permit for the erection of such sign or illumination shall be granted. (1978 Code, § 11-609)

CHAPTER 7

COMMERCIAL C DISTRICTS

SECTION

- 14-701. Commercial C Districts.
- 14-702. Uses permitted.
- 14-703. Uses permissible upon appeal.
- 14-704. Uses prohibited.
- 14-705. Minimum lot requirements.
- 14-706. Minimum yard requirements.
- 14-707. Maximum height.
- 14-708. Signs and billboards.

14-701. Commercial C Districts. Within the Commercial C District (Central Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-701)

14-702. Uses permitted. Any structure or use permitted in Commercial B Districts (except that gasoline service stations shall be prohibited in this district) shall be permitted and in addition:

- (1) Retail stores.
- (2) Eating and drinking establishments.
- (3) Financial institutions.
- (4) Recreational structures and uses, including theaters, pool halls, and auditoriums.
- (5) Garage for sales, storage, motor vehicle sales rooms, subject to the provisions of § 14-211.
- (6) Business or commercial schools.
- (7) Bus stations.
- (8) Hotels and similar uses.
- (9) Child day care facilities, subject to specific requirements of chapter 18.

Customary accessory uses and structures, except that no such accessory use shall be of a nature prohibited as a principal use, shall be permitted. (1978 Code, § 11-702, as amended by Ord. #99-724, Nov. 1999)

14-703. Uses permissible upon appeal. After public notice and hearing, subject to appropriate safeguards and conditions and approval by the Sparta Board of Zoning Appeals, the board of zoning appeals may permit telecommunication towers and support structures, construction of a new building or rehabilitation of an existing building in the Commercial C District for multi-family residential/apartment uses or mixed commercial-multi-family residential uses.

When reviewing applications for such uses, the board of zoning appeals shall consider the overall effect of the proposal to the area and surrounding properties so that there will not be a detrimental effect to the stability and viability of the business district.

In determining the effect of the proposal to the area, the board of zoning appeals must evaluate the number of units proposed, availability of off-street parking, provisions for solid waste storage, availability of utilities, and the city's capacity to respond effectively to emergencies.

In addition, the following conditions must also be met:

(1) Site plan and floor plans must be submitted to the board of zoning appeals.

(2) Off-street parking must be provided at a ratio of 1.5 spaces per unit, located within a reasonable walking distance, and designed so that no vehicle is required to back onto a public thoroughfare.

(3) A minimum square footage per dwelling unit of 500 square feet for a one-bedroom unit, 675 square feet for a two-bedroom unit, and 900 square feet for a three-bedroom unit must be provided.

(4) All municipal building and fire codes must be adhered to.

(5) Storage areas for solid waste must be screened, secured from animals, not located on public property including public street and sidewalks, and must be accessible to the city sanitation department. (1978 Code, § 11-703, as amended by Ord. #02-756, Nov. 2002)

14-704. Uses prohibited. These uses are prohibited: Truck terminals; storage warehouses and yards; junkyards; machine shops; second hand automobile storage and sales yards; service stations; stone yards or monument works; all uses or structures not of a nature specifically permitted herein; and any use dangerous or offensive because of odor, smoke, noise, glare, fumes, gas, fire or vibration, or hazardous because of danger of fire or explosion. (1978 Code, § 11-704)

14-705. Minimum lot requirements. There shall be no minimum lot requirements. (1978 Code, § 11-705)

14-706. Minimum yard requirements. There shall be no minimum yard requirements, except as needed to provide adequate off-street loading and unloading spaces and provide off-street parking where on-street parking is not available. (1978 Code, § 11-706, as amended by Ord. #00-730, Sept. 2000)

14-707. Maximum height. Maximum height shall be 65 feet or 5 stories. (1978 Code, § 11-707)

14-708. Signs and billboards. Regulations regarding signs and billboards shall be the same as for Commercial B Districts. (1978 Code, § 11-708)

CHAPTER 8

COMMERCIAL D DISTRICTS

SECTION

- 14-801. Commercial D Districts.
- 14-802. Uses permitted.
- 14-803. Uses permitted on appeal.
- 14-804. Uses prohibited.
- 14-805. Minimum lot requirements.
- 14-806. Minimum yard requirements.
- 14-807. Maximum height.
- 14-808. Minimum off-street parking and off-street loading requirements.
- 14-809. Signs and billboards.

14-801. Commercial D Districts. Within the Commercial D District (General Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-801)

14-802. Uses permitted. Any structure or use permitted in the Commercial C District shall be permitted, and in addition:

- (1) Motels.
- (2) Service stations.
- (3) Mortuaries and funeral homes.
- (4) Stores specializing in second-hand merchandise.
- (5) Storage warehouses except as provided under § 14-804.
- (6) Second-hand automobile sales yards, subject to the provisions of § 14-211, and uses of a similar nature.

Customary accessory uses and structures shall be permitted, except that no such accessory use shall be of a nature prohibited as a principal use.

(7) Child day care operations, in accordance with specific regulations found in chapter 18.

- (8) Retail sales of building materials and supplies.
- (9) Flea markets.
- (10) Adult oriented establishments as regulated in chapter 22.
- (11) Single-family zero-lot line, attached and detached cluster developments, and condominiums subject to the following:

(a) Submittal to and approval of the planning commission of a site plan depicting the location of all proposed structures and improvements.

(b) Access to individual parcels shall be provided from internal streets or parking areas constructed to serve a particular development unless otherwise approved by the planning commission. Standards for parking, access, spacing of structures and site improvements shall be as

for the RZD, Residential Zero-Lot Line District as specified in Chapter 23 of this Zoning Code.

(c) Minimum lot area requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be calculated on the overall land area of a particular site provided a restriction is placed on the final subdivision plat prohibiting resubdivision that would alter the overall site density.

(d) Minimum lot width requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the planning commission.

(e) Minimum front setback requirements for single-family attached dwellings and single-family detached cluster developments of three (3) or more units may be reduced upon the approval of the planning commission for internal streets constructed to serve a particular development.

(f) The maximum number of dwelling units shall be computed by multiplying the gross acreage to be developed by twenty-one (21), excluding any area to be developed as a church, school, child care center, or commercial use (as approved by the planning commission). (1978 Code, § 11-802, as amended by Ord. #99-724, Nov. 1999, Ord. #11-864, Oct. 2011, and Ord. #19-924, July 2019 *Ch14_04-21-22*)

14-803. Uses permitted on appeal. After public notice and hearing and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

(1) Any use permitted in Residential B Districts;

(2) Light industry where the proposed use in the opinion of the board of zoning appeals will not be detrimental to the area in which it is to be located. In determining the suitability of the proposed use the board of zoning appeals may study the particular nature of the use with regard to parking, emergency services, employment environmental conditions such as noise, smoke, gas, vibrations, fumes, dust or other objectionable conditions, storage of combustible materials, and such other factors as may under the circumstances be pertinent to whether the proposed use is compatible with the surrounding area.

(3) Retail sales of farm supplies including feeds, fertilizers, farm equipment, and similar products normally associated with the farm supply business where the proposed use, in the opinion of the board of zoning appeals, will not be detrimental to the area in which it is located. In determining the suitability of the proposed use, the board of zoning appeals will study the particular use with regard to parking, truck traffic, environmental conditions such as safe storage and containment of products on site, noise, gas, vibrations, fumes, dust, or other objectionable conditions, and such other factors as may, under the circumstances, be pertinent to whether the proposed use is compatible with the surrounding area.

(4) Telecommunication towers and support structures. (1978 Code, § 11-803, as amended by Ord. #02-756, Nov. 2002)

14-804. Uses prohibited. The following uses shall be prohibited:

- (1) Storage yards.
- (2) Bulk storage or sales of fuels or gasoline.
- (3) Junk yards.
- (4) Scrap and salvage yards.
- (5) Machine shops.
- (6) Stone or monument works, and all uses and structures not of a nature specifically or provisionally permitted herein; and any use dangerous or offensive because of odor, smoke, noise, flare, fumes, gas, fire or vibration or hazardous because of danger of fire or explosion. (1978 Code, § 11-804)

14-805. Minimum lot requirements. Minimum lot requirements shall be:

- (1) Residences: same as for Residential B Districts.
- (2) Other permitted uses: same as for Commercial B Districts. (1978 Code, § 11-805)

14-806. Minimum yard requirements. Minimum yard requirements shall be:

- (1) Front: 25 feet
- (2) Rear: 20 feet
- (3) Side: None required except for residential use, but if a side yard is provided it shall not be less than ten feet in width: except whenever a lot in this district adjoins a residential district without an intervening street or alley, a side yard shall be provided on the side adjoining the residential district corresponding in its dimensions or those required in the residential districts. (1978 Code, § 11-806)

14-807. Maximum height. Maximum height shall be 45 feet or 5 stories. (1978 Code, § 11-807)

14-808. Minimum off-street parking and off-street loading requirements. (1) Off-street parking: same as for Residential B, Commercial A, and Commercial B for uses permitted herein, and for other permitted uses as follows:

- (a) Retail stores: one space for each two workers, plus one space per 300 square feet of gross floor area.
- (b) Financial institutions: one space for each two employees, plus one space per 300 square feet of floor space open to the public.
- (c) Funeral homes: one space for each two employees, plus one space for each ten seats available for public use.

(d) All other permitted uses: one space for each two employees regularly working, plus additional space as determined by the board of zoning appeals.

(2) Off-street loading: no curb loading or unloading on any state or U.S. highway. Off-street loading and unloading space shall be laid out, regulated, and controlled so as to prevent use of the street or highway for maneuvering incidental to loading or unloading. (1978 Code, § 11-808)

14-809. Signs and billboards. Regulations regarding signs and billboards shall be the same as for Commercial C, with the additional provision that no such, poster, billboard or other advertising matter or device shall be erected in any required front yard. (1978 Code, § 11-809)

CHAPTER 9

INDUSTRIAL M-I DISTRICTS

SECTION

14-901. Industrial M-I Districts.

14-902. Uses permitted.

14-903. Uses permitted on appeal.

14-904. Uses prohibited.

14-905. Yards, street access and frontage, lot coverage, off-street parking requirements.

14-906. Maximum height.

14-907. Repealed.

14-908. Signs and billboards.

14-901. Industrial M-I Districts. Within the Industrial M-I Manufacturing-Industry) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-901)

14-902. Uses permitted. (1) Any industrial or manufacturing use shall be permitted, except those which in the opinion of the codes enforcement officer would cause noise, smoke, gas, vibration, fumes, dust, or other objectionable conditions that would affect a considerable portion of the city.

(2) Child day care facilities, subject to specific requirements of chapter 18. (1978 Code, § 11-902, as amended by Ord. #99-724, Nov. 1999)

14-903. Uses permitted on appeal. Any use permitted in commercial districts which in the opinion of the board of zoning appeals will not be detrimental to the district in which located may be permitted on appeal, including telecommunication towers and support structures, subject to conditions and safeguards as may be required by the board of zoning appeals; and in addition, auto wrecking or junk yards and above ground gasoline or oil storage may be permitted on appeal subject to conditions as may be required by the board of zoning appeals. (1978 Code, § 11-903, as amended by Ord. #02-756, Nov. 2002)

14-904. Uses prohibited. All residential uses are prohibited. (1978 Code, § 11-904)

14-905. Yards, street access and frontage, lot coverage, off-street parking requirements. (1) Required Yards. No principal or accessory building above grade shall be located less than 200 feet from the boundary of any residential zone.

- (2) No parking area or loading area shall be located:
 - (a) Less than 200 feet from the boundary of any residential zone, except that employee or visitor parking shall be permitted not less than 50 feet from the common boundary of the residential zone in accordance with the provisions of Section D-2.
 - (b) Less than 10 feet from any lot line which adjoins an industrial zone or commercial zone.

(3) No principal or accessory building shall be located less than the following minimum distances from the street right-of-way line or proposed street right-of-way of the following types of streets or highways as designated on the Sparta Major Road Plan or by the Sparta Planning Commission (hereinafter referred to as "planning commission") where no such plan exists:

- (a) Controlled Access Routes
 - From a freeway50 feet
 - From an express parkway.....50 feet
 - Major highway
(with or without service roads).....50 feet
- (b) Local Access Routes
 - Arterial street separating the
Industrial Zone from a Residential
Zone.....100 feet
 - Arterial street separating the
Industrial Park from a Commercial
Zone..... 25 feet
 - From a local street, arterial street,
or a privateway through an
Industrial Park.....25 feet

(4) Street access and frontage. Each lot shall have a minimum frontage of 150 feet on a street; provided, however, that the board of zoning appeals may approve a lesser frontage to a minimum of 50 feet for lots located on cul-de-sacs or on street curves or having other extraordinary characteristics. Vehicular access shall be permitted only to one of the following types of streets:

- (a) Controlled access routes:
 - Major highways
- (b) Local access routes:
 - (1) Major highways
 - (2) Connecting or secondary (arterial) highway.
 - (3) A local street or privateway connecting only with any of the above highways and not directly connected with any residential street.

(5) The designation of any street or highway as to type shall be in conformance with that shown on the officially adopted major road plan.

(6) For the purposes of the above section, streets and highways shall be defined as follows:

(a) "Freeway." A divided highway for through traffic with full control of access with grade separations at intersections.

(b) "Express parkways." Same as freeway except that use is limited to non-commercial traffic and is usually located within a park or a ribbon of parklike development.

(c) "Major highway, controlled." A divided highway with parallel service roads which may or may not be continuous and with access connections limited to selected public roads at grade.

(d) "Major highway." A divided highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

(e) "Connecting or secondary (arterial) highway." Same as major highway but not necessarily divided. Function is to provide connection between major highways and controlled access routes.

(f) "Local street or privateway." A way used primarily to connect a lot or lots in the industrial zone with a public street or road outside the zone.

(7) Lot coverage. Not more than forty percent of the area of the lot may be covered by buildings, including accessory buildings.

(8) Off-street parking requirements. Off-street parking shall be provided in accordance with the general provisions set forth, and all permitted uses shall conform to the schedule for an industrial or manufacturing establishment or warehouse or similar use, the minimum requirement shall be one parking space for each one and one-half employees, or one for each two employees on combined major and second shifts, and in addition one visitor parking space for every 20 employees, except that the board of zoning appeals may authorize fewer visitor parking spaces if it finds that a fewer number will be sufficient for the operation anticipated. In addition to the foregoing, one parking space shall be provided for each company-owned or -leased truck, passenger car or other vehicle located or principally based on the premises. No parking spaces may be located within required yards, except in accordance with the provisions contained herein. Off-street parking spaces may be grouped in facilities serving more than one lot or establishment.

(9) When the lot on which parking spaces are located abuts the rear or side lot line of any land in a residential zone and is less than the required 200 feet, a wall, fence or evergreen planting shall be maintained so as to screen substantially the parking lot from view from the nearest property in the residential zone. The screening shall be maintained in

good condition at all times. In parking lots of one acre or more, at least 5% of the area of the parking lot shall be devoted to landscaping within the interior of the parking area. No luminaries on parking lots shall be more than 20 feet above ground level. (1978 Code, § 11-905, as amended by Ord. #03-774, Jan. 2004)

14-906. Maximum height. Maximum height shall be 65 feet or 5 stories. (1978 Code, § 11-906)

14-907. Minimum off-street parking and off-street loading requirements. Minimum off-street parking and loading requirements shall be the same as for Commercial D Districts. (1978 Code, § 11-907)

14-908. Signs and billboards. Sign and billboard requirements shall be the same as for Commercial D Districts. (1978 Code, § 11-908)

CHAPTER 10

MOBILE HOMES, MOBILE HOME PARKS, AND PORTABLE COMMERCIAL STRUCTURES

SECTION

- 14-1001. Where permitted.
- 14-1002. Mobile home subdivision.
- 14-1003. Application for mobile home park.
- 14-1004. Contents of application; license and fee.
- 14-1005. Maximum number of spaces.
- 14-1006. Dimensions of spaces, yards; parking.
- 14-1007. Buffer strip.
- 14-1008. Additional requirements.
- 14-1009. Fire prevention.
- 14-1010. Additions to mobile homes--parking restrictions.
- 14-1011. Revocation of license.
- 14-1012. Use of portable commercial structures.

14-1001. Where permitted. In residential "B" districts, mobile homes are permitted in mobile home parks only, subject to the provisions of this chapter set forth hereinafter, further provided that all applicable subdivision regulations, housing and building code provisions, and state and federal laws are complied with. (1978 Code, § 11-1001, as amended by Ord. #00-730, Sept. 2000)

14-1002. Mobile home subdivision. Mobile home subdivisions shall comply with all subdivision regulations set out in the Sparta, Tennessee Subdivision Regulations. (1978 Code, § 11-1002)

14-1003. Application for mobile home parks. Applications for mobile home parks shall be presented to the codes enforcement officer and approved by him prior to submission to the Tennessee Commissioner of Public Health or his duly authorized representative as required by Tennessee Code Annotated, §§ 53-3201 through 53-3220 and the "Trailer Court Regulations" of the Tennessee Department of Health. (1978 Code, § 11-1003)

14-1004. Contents of application; license and fee. (1) An application for a mobile home park shall consist of a map drawn to a scale no smaller than one inch equals one-hundred feet setting forth thereon the geographical location, boundaries, drainage, buildings, and sanitation facilities such as the location of water and sewer lines and the number, location and size of all mobile home spaces.

(2) The application shall be accompanied by a non-refundable application fee of \$25.00, which shall constitute payment in full for the license

to operate a mobile home park for the first year. That, upon approval by the Tennessee Commissioner of Public Health as provided in § 14-1003, the applicant shall be issued a license which shall be automatically renewable annually in the absence of violations of this chapter by the licensee at an annual license fee of \$25.00.

(3) That funds generated by the applications or license renewals hereunder shall be designated to codes enforcement for financing of enforcement of the provision hereof. (1978 Code, § 11-1004)

14-1005. Maximum number of spaces. There shall be a maximum of nine (9) mobile home spaces per acre in mobile home parks. (1978 Code, § 11-1005)

14-1006. Dimensions of spaces, yards; parking. Each mobile home space in a mobile home park shall have a minimum width of (32) thirty-two feet with end parking of automobile, forty-two (42) feet with side parking of automobiles, except that where mobile homes wider than fourteen (14) feet are anticipated the width of the lot shall be equal to the width of the mobile home plus thirty (30) feet.

Each mobile home space shall have a depth of ninety (90) feet with end parking of automobiles and eighty (80) feet with side parking of automobiles. The minimum front yard shall be fifteen (15) feet from toe hitch and the minimum side yards shall be fifteen feet (15). No mobile home shall be located closer than thirty (30) feet to any public street or highway. (1978 Code, § 11-1006)

14-1007. Buffer strip. A planted buffer strip, not less than twenty (20) feet in width shall be located along the property lines of the mobile home park, except across driveways and streets. (1978 Code, § 11-1007)

14-1008. Additional requirements. In addition to the above requirements, mobile home parks must meet the following requirements:

(1) A minimum of fifty (50) percent of the total number of mobile home spaces in the proposed park shall be available for occupancy before any mobile home space may be occupied by a mobile home.

(2) There shall be only one mobile home per mobile home space.

(3) Every mobile home space shall abut a driveway with unobstructed access to an open, approved public street.

(4) No part of any mobile home shall be located more than five hundred (500) feet from a fire hydrant.

(5) Each mobile home park shall provide at least one off-street parking space for each mobile home space plus an additional space for each four mobile homes to provide for guest parking, families owning two cars, and delivery and

service vehicles. Insofar as practical, one car space shall be located on each lot and the remainder in adjacent parking bays.

(6) Roads shall conform to the following standards:

No. of Homes Served	Parking	Street Paving Width
One-way, serving less than 20 lots	None	14 ft.
	One side	16 ft.
	Both sides	23 ft.
Two-way, serving less than 40 lots	None	18 ft.
	One side	25 ft.
	Both sides	32 ft.
Serving 40 or more lots	None	20 ft.
	One side	27 ft.
	Both sides	34 ft.

(7) The storage, collection and disposal of refuse shall be so managed as to create no health hazards, rodent harborage or insect breeding areas. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped.

(8) The mobile home park water distribution system shall be connected to the public water supply system.

(9) All water piping, fixtures, and other equipment shall be so constructed and maintained in accordance with state and local regulations and requirements and shall be of the type and location approved by the State Health Department.

(10) An adequate and safe sewerage system shall be required for conveying and disposing of all sewage. Whenever feasible, connection shall be made to the public sewerage system.

(11) The sewerage system shall be designed and constructed in accordance with state and local laws, and shall be approved by the county health officer. (1978 Code, § 11-1008)

14-1009. Fire prevention. The mobile home park shall be subject to the rules and regulations of the fire prevention authorities having jurisdiction. (1978 Code, § 11-1009)

14-1010. Additions to mobile homes--parking restrictions. No permanent additions of any kind shall be built onto, nor become a part of, any mobile home. Skirting of mobile homes is permissible, but such skirting shall not permanently attach the mobile home to the ground, providing a harborage for rodents or create a fire hazard. (1978 Code, § 11-1010)

14-1011. Revocation of license. The codes enforcement officer shall make periodic inspection of the park to assure compliance with this chapter. In case of noncompliance with any provisions of this chapter the codes enforcement officer shall serve written warning to the licensee. Thereafter upon failure of the licensee to remove said violation, within 30 days after receipt of written warning, the codes enforcement officer shall have authority to revoke the offending park's license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law. (1978 Code, § 11-1011)

14-1012. Use of portable commercial structures. (1) The purpose of this section is to provide for the installation of portable commercial structures in situations where the owner of the business may own the property from which the business will operate but does not wish to install a permanent structure on it or in situations where the owner of the business does not own the property on which the business will operate from and therefore, does not desire to erect a permanent structure on the site.

(2) Portable commercial structures may be constructed so as to provide for future removal from the site upon which they are installed in the event their use is no longer needed, required, or necessary. Construction of portable commercial structures shall be in accordance with all applicable building codes, ordinances, and regulations. Structures which meet the requirement of the Tennessee Modular Building Act as provided for by Tennessee Code Annotated, § 68-126-301 through 309 shall also be allowed.

(3) Portable commercial structures being lawfully installed and used at the time of adoption of this section shall be grandfathered for their current use as to the provisions contained herein.

(4) Structures qualifying for the grandfather provisions of § 14-1012(3) above which cease to be used for the purposes for which they were originally permitted for a period of six (6) months shall thereafter be required to meet all codes and regulations which are applicable for the type use intended for the structure. (1978 Code, § 11-1012, as replaced by Ord. #02-761, Dec. 2002)

CHAPTER 11

MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-1101. Statutory authorization, findings of fact, purpose and objectives.
- 14-1102. Definitions.
- 14-1103. General provisions.
- 14-1104. Administration.
- 14-1105. Provisions for flood hazard reduction.
- 14-1106. Variance procedures.
- 14-1107. Legal status provisions.

14-1101. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 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 City of Sparta, Tennessee, Mayor and Board of Aldermen, do ordain as follows:

(2) Findings of fact. (a) The City of Sparta, Tennessee, Mayor and Board of Aldermen wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Sparta, Tennessee 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) 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, floodproofed, 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 flooding 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 of floodwaters;

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

(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, safety 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 floodprone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (1978 Code, § 11-1101, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

14-1102. 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" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage;

(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, collapse, and lateral movement, which otherwise may result in damage to other structures;

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "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.

(4) "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.

(5) "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.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(9) "Building" see "structure."

(10) "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 storage of equipment or materials.

(11) "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 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.

(12) "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.

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

(14) "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.

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

(16) "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 NFIP.

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

(18) "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).

(19) "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.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) 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.

(21) "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.

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

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

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "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.

(27) "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.

(28) "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 and structures and their contents.

(29) "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.

(30) "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.

(31) "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 floodplain management regulations.

(32) "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.

(33) "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, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "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.

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

(36) "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 preliminarily 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 the City of Sparta, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

(37) "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.

(38) "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.

(39) "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.

(40) "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."

(41) "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.

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

(43) "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 the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

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

(46) "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 on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

(48) "100-year flood" see "base flood."

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

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "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;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "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.

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

(54) "Special flood hazard area" 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, A1-30, AE or A99.

(55) "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.

(56) "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.

(57) "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 FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "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.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

- (a) The appraised value of the structure prior to the start of the initial improvement; or
- (b) In the case of substantial damage, the value of the structure prior to the damage occurring.

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."

(61) "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.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "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.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical

Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1978 Code, § 11-1102, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

14-1103. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Sparta, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Sparta, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47185C0155D, 47185C0165D, dated September 28, 2007, 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 Sparta, 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. Any person who violates this ordinance or fails to comply with any of its

requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Sparta, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1978 Code, § 11-1103, as replaced by Ord. #06-814, Oct. 2006, amended by Ord. #07-825, Sept. 2007, and replaced by Ord. #10-847, May 2010)

14-1104. Administration. (1) Designation of ordinance administrator. The building official 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 base flood elevations are available, or to certain height above 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 floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1105(1) and (2).

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

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base 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. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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, the following:

(a) Review 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) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notify 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 submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1104(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-1104(2).

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-1104(2).

(i) 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), 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.

(j) When base flood elevation data and floodway data have not been provided by FEMA, 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 City of Sparta, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance 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, § 11-1104, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

14-1105. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

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

(d) New construction and substantial improvements 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;

(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 non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1105(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1105(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to 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 on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Within approximate 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 to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1102). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-1102). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, 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 Tennessee 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 § 14-1104(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, 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 Tennessee professional engineer or architect or meet or exceed 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 finished grade;

(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) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1105(2).

(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.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1102).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1105(1) and (2).

(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 in an identified special flood hazard area 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); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development 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 and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-1105(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-1103(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 development 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 shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Sparta, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-1103(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 construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee 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 and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-1103(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1105(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres,

whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, 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 (as defined in § 14-1102). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1104(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1105(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, 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 a Tennessee 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 City of Sparta, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2). Within approximate A Zones, require that those subsections of § 14-1105(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-1103(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, in addition to those set forth in § 14-1105(1) and (2), 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 as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate

automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1105(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, 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 on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee 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 accordance with § 14-1104(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1103(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-1104 and 14-1105 shall apply.

(8) Standards for unmapped streams. Located within the City of Sparta, 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) No encroachments including fill material or other development including 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 Tennessee 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 a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1104 and 14-1105. (1978 Code, § 11-1105, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

14-1106. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Sparta, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty (\$50.00) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Sparta, Tennessee Municipal 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 as defined, herein, 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 necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

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

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) 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;

(10) 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, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals 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 the factors listed in § 14-1106(1).

(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 elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (1978 Code, § 11-1106, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

14-1107. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Sparta, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (as added by Ord. #06-814, Oct. 2006, and replaced by Ord. #10-847, May 2010)

CHAPTER 12

HISTORIC (H-1) DISTRICTS

SECTION

14-1201. H-1 (Historic) District.

14-1202. Uses permitted.

14-1203. Mobile homes and dish antennas.

14-1201. H-1 (Historic) District. It is the intent of this district to preserve historical buildings and sites in the City of Sparta. The requirements of the district are designed to protect and preserve historic and/or architectural value; provide protection from uses that would lessen the significance of the surrounding uses; create an aesthetic atmosphere; stabilize property values; enhance civic beauty; strengthen the economy, and promote education and patriotic heritage of the present and future citizens of the community. (1978 Code, § 11-11A01)

14-1202. Uses permitted. In order to achieve the intent of the H-1 (Historic) District, as shown on the Zoning Map of Sparta, the following uses are permitted: Any use permitted or allowable as a special exception in the underlying zoning district provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or any changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to and receives approval in writing by the historic zoning commission. The historic zoning commission may, however, prepare a listing of prior approvals permitted in the historic district. (1978 Code, § 11-11A02)

14-1203. Mobile homes and dish antennas. No mobile homes or dish antennas are permitted in the historic district. (1978 Code, § 11-11A03)

CHAPTER 13

ADMINISTRATION AND ENFORCEMENT

SECTION

- 14-1301. Administration and enforcement.
- 14-1302. Building permits required.
- 14-1303. Application for building permit.
- 14-1304. Site plan regulations for commercial, industrial, and multi-family residential uses.
- 14-1305. Certificates of zoning compliance for new, altered, or non-conforming uses.
- 14-1306. Expiration of building permit.
- 14-1307. Construction and use to be as provided in applications, plans, permits, and certificates of zoning compliance.
- 14-1308. Fees, charges, and expenses.
- 14-1309. Amendments.
- 14-1310. Provisions to be minimum requirements.
- 14-1311. Complaints; procedure.
- 14-1312. Violations and penalties.

14-1301. Administration and enforcement. The codes enforcement officer shall administer and enforce chapters 2 through 14 of this title. He may be provided with the assistance of such other persons as the board of mayor and aldermen may direct.

If the codes enforcement officer shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by chapters 2 through 14 of this title to insure compliance with or to prevent violation of its provisions. (1978 Code, § 11-1201)

14-1302. Building permits required.¹ No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the codes enforcement officer. No building permit shall be issued except in conformity with the provisions of chapters 2 through 14 of this title, except after written order from the board of zoning appeals. (1978 Code, § 11-1202)

¹Municipal code reference
Building code: title 12.

14-1303. Application for building permit. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact size and locations on the lot of buildings already existing, if any; and the locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the codes enforcement officer, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determined conformance with, and provide for the enforcement of chapters 2 through 14 of this title.

One copy of the plans shall be returned to the applicant by the codes enforcement officer after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the codes enforcement officer. (1978 Code, § 11-1203)

14-1304. Site plan regulations for commercial, industrial, and multi-family residential uses. It is the general purpose and intent of this section to require site plans for all new developments or redevelopments of commercial, industrial, public and semi-public, and multi-family (three family or more) residential uses to provide for a lessening of traffic congestion and for securing adequate light, air, and aesthetic conditions for residents of the city. These plans shall be approved by the building official or codes officer prior to the issuance of grading or building permits. Site plans for small additions to existing buildings shall be exempt from review when, in the opinion of the building inspector, the addition will not adversely affect the general purpose and intent of these regulations. The site plan shall set forth the proposal for development of the total land tract according to the following specifications and conditions:

(1) Site plans shall be prepared by a licensed engineer, architect, landscape architect, or surveyor.

(2) Topography of existing and finished grades at two (2) foot intervals.

(3) Location of areas as defined by the codes enforcement officer that are subject to flooding. Site plan shall include a storm water drainage plan.

(4) Location of existing buildings, streets, sidewalks, easements and rights-of-way, and covenants.

(5) Include a plan for vehicular and pedestrian circulation.

(6) Location of all structures including signs. Sign details shall include elevation drawings.

(7) Utility plans for water, sewer, and power. Power service connections shall be located at the rear of the structure or structures, where feasible.

(8) Plans for landscaping, screening, open space and ingress-egress points. If applicable, the landscaping plan shall include design details for off-street parking areas with the following information:

- (a) Street frontage.
- (b) Interior landscaping.
- (c) Perimeter landscaping.

(d) The parking spaces shall be designed and constructed in a manner that will prevent damage to the landscaping by vehicles or pedestrian traffic.

(e) The plan shall contain a description of any plants and material proposed for use.

(f) The landscaping shall be permanently maintained.

(g) A plan for frontage or parallel access street, if applicable.

(9) General requirements of a north arrow, a scale of not less than 1"= 20 feet, a location map, acreage of site, location of solid waste collection points, and any other information deemed pertinent by the codes enforcement officer. (1978 Code, § 11-1203A)

14-1305. Certificates of zoning compliance for new, altered, or non-conforming uses. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the codes enforcement officer stating that the proposed use of the building or land conforms to the requirements of chapters 2 through 14 of this title.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the codes enforcement officer. This certificate of zoning compliance shall state the provisions of chapters 2 through 14 of this title, provided that upon enactment or amendment of chapters 2 through 14 of this title, owners or occupants of non-conforming uses shall have three months to apply for certificates of zoning compliance. Failure to make such application within three months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of chapters 2 through 14 of this title.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of chapters 2 through 14 of this title upon completion of the work.

A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person.

Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under the general penalty clause for this code. (1978 Code, § 11-1204)

14-1306. Expiration of building permit. If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the codes enforcement officer, and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the codes enforcement officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (1978 Code, § 11-1205)

14-1307. Construction and use to be as provided in applications, plans, permits, and certificates of zoning compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of chapters 2 through 14 of this title and punishable as provided by the general penalty clause for this code. (1978 Code, § 11-1206)

14-1308. Fees, charges, and expenses. Regulations concerning collection of costs, charges, fees and expenses in connection with building permits, certificates of occupancy and appeals procedures shall be established by the board of mayor and aldermen.

A fee of fifty dollars (\$50.00) shall be paid at the time the application is submitted by persons making requests of the Sparta Municipal Planning Commission for rezoning, special exceptions and variances.

No permit, certificate, exception or variance shall be issued unless and until any such costs, charges, fees or expenses in excess of the fifty dollar (\$50.00) application fee have been paid in full, nor shall any action be taken or proceedings before the board of zoning appeals unless or until preliminary charges have been paid in full. (1978 Code, § 11-1207, as amended by Ord. #09-836, April 2009)

14-1309. Amendments. The regulations, restrictions and boundaries set forth in chapters 2 through 14 of this title may from time to time be amended, supplemented or changed; provided, however, that no such action may

be taken until each proposed change be first submitted to and approved by the planning commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the board of mayor and aldermen. Before enacting any amendment, the board of mayor and aldermen shall hold a public hearing thereon, at least fifteen days notice of the time and place of which shall be published in a newspaper of general circulation in the City of Sparta. (1978 Code, § 11-1208)

14-1310. Provisions to be minimum requirements. In their interpretation and application, the provisions of chapters 2 through 14 of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of chapters 2 through 14 of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern. (1978 Code, § 11-1209)

14-1311. Complaints; procedure. Whenever a violation of chapters 2 through 14 of this title occurs, any person may file a complaint in regard thereto, which complaint shall be in writing and shall be filed with the codes enforcement officer, who shall properly record such complaint and immediately investigate, and take action thereon as provided by chapters 2 through 14 of this title. (1978 Code, § 11-1210)

14-1312. Violations and penalties. Violation of the provisions of chapters 2 through 14 of this title or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates chapters 2 through 14 of this title or fails to comply with any of its requirements, shall upon conviction thereof be punished in accordance with the general penalty clause for this code. (1978 Code, § 11-1211)

CHAPTER 14

BOARD OF ZONING APPEALS

SECTION

- 14-1401. Board of zoning appeals; composition, terms, removal, and filling vacancies.
- 14-1402. Proceedings of the board of zoning appeals.
- 14-1403. Appeals; hearing and notice.
- 14-1404. Appeal stays proceedings.
- 14-1405. Powers and duties of the board of zoning appeals.
- 14-1406. Decisions of the board of zoning appeals.
- 14-1407. Appeals.
- 14-1408. Duties of the codes enforcement officer, board of zoning appeals, board of mayor and aldermen, and courts on matters of appeal.

14-1401. Board of zoning appeals; composition, terms, removal, and filling vacancies. A board of zoning appeals is hereby established, which shall consist of five members serving staggered terms, to be appointed by the board of mayor and aldermen. The term of membership shall be three years, except that the initial individual appointments to the board shall be one member for one year, two members for two years, and two members for three years. Members of the board of zoning appeals may be removed from office by the board of mayor and aldermen for cause upon written charges and after public hearings. Vacancies shall be filled by resolution of the board of mayor and aldermen for the unexpired term of the member affected. The board of mayor and alderman may also appoint the Sparta Municipal Planning Commission to serve as the board of zoning appeals as allowed under Tennessee Code Annotated, § 13-7-205. (1978 Code, § 11-1301, as replaced by Ord. #04-779, Aug. 2004)

14-1402. Proceedings of the board of zoning appeals. The board of zoning appeals shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of chapters 2 through 14 of this title. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The board of zoning appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board. (1978 Code, § 11-1302)

14-1403. Appeals; hearing and notice. Appeals to the board of zoning appeals concerning interpretation or administration of chapters 2 through 14 of this title may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the board, by filing with the administrative official and with the board of zoning appeals a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

The board of zoning appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. (1978 Code, § 11-1303)

14-1404. Appeal stays proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the administrative official from whom the appeal is taken certifies to the board of zoning appeals after the notice of appeal is filed with him, that by reason of facts stated in certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the board of zoning appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown. (1978 Code, § 11-1304)

14-1405. Powers and duties of the board of zoning appeals. The board of zoning appeals shall have the following powers and duties:

(1) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the codes enforcement officer in the enforcement of chapters 2 through 14 of this title.

(2) Special exceptions; conditions governing applications; procedures. To hear and decide only such special exceptions as the board of zoning appeals is specifically authorized to pass on by the terms of this title; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under chapters 2 through 14 of this title, or to deny special exceptions when not in harmony with the purpose of intent of chapters 2 through 14 of this title. A special exception shall not be granted by the board of zoning appeals unless and until:

(a) A written application for a special exception is submitted indicating the section of chapters 2 through 14 of this title under which the special exception is sought and stating the grounds on which it is requested;

(b) Adequate notice of the public hearing shall be published once in a newspaper of general circulation prior to the public hearing and due notice shall be given to the parties interested. Notice for such hearings shall be posted on the property for which special exception is sought and at the city hall prior to the public hearing.

(c) The public hearing shall be held. Any party may appear in person or by agent or attorney;

(d) The board of zoning appeals shall make a finding that it is empowered under the section of chapters 2 through 14 of this title described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the board of zoning appeals may prescribe appropriate conditions and safeguards in conformity with chapters 2 through 14 of this title. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of chapters 2 through 14 of this title. The board of zoning appeals shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

(3) Variances; conditions governing applications; procedures. To authorize upon appeal in specific cases such variance from the terms of chapters 2 through 14 of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of chapters 2 through 14 of this title would result in unnecessary hardship. A variance from the terms of chapters 2 through 14 of this title shall not be granted by the board of zoning appeals unless and until:

(a) A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to the other lands, structures, or buildings in the same district;

(2) That literal interpretation of the provisions of chapters 2 through 14 of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of chapters 2 through 14 of this title;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by chapters 2 through 14 of this title to other lands, structures, or buildings in the same district, and no permitted use of lands, structures, or

buildings in other districts shall be considered grounds for the issuance of a variance.

(b) Notice of public hearing shall be given as in § 14-1405(2)(b) above;

(c) The public hearing shall be held. Any party may appear in person or by agent or by attorney.

(d) The board of zoning appeals shall make findings that the requirements of § 14-1405(3)(a)(1) have been met by the applicant for a variance;

(e) The board of zoning appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(f) The board of zoning appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of chapters 2 through 14 of this title, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the board of zoning appeals may prescribe appropriate conditions and safeguards in conformity with chapters 2 through 14 of this title. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of chapters 2 through 14 of this title and punishable under the general penalty clause for this code.

Under no circumstances shall the board of zoning appeals grant a variance to allow a use not permissible under the terms of chapters 2 through 14 of this title in the district involved, or any use expressly or by implication prohibited by the terms of chapters 2 through 14 of this title in said district. (1978 Code, § 11-1305, as amended by Ord. #04-782, Oct. 2004)

14-1406. Decisions of the board of zoning appeals. In exercising the above mentioned powers, the board of zoning appeals may, so long as such action is in conformity with the terms of chapters 2 through 14 of this title, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.

The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of the codes enforcement officer, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 2 through 14 of this title, or to effect any variation in the application of chapters 2 through 14 of this title. (1978 Code, § 11-1306)

14-1407. Appeals. Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of zoning appeals may seek review by a court of record of such decision, in the manner provided by the laws of the State of Tennessee. (1978 Code, § 11-1307)

14-1408. Duties of codes enforcement officer, board of zoning appeals, board of mayor and aldermen, and courts on matters of appeal.

It is the intent of chapters 2 through 14 of this title that all questions arising in connection with the enforcement or interpretation of chapters 2 through 14 of this title (except as otherwise expressly provided in chapters 2 through 14 of this title) shall be first presented to the codes enforcement officer, and that such questions shall be presented to the board of zoning appeals only on appeal from the codes enforcement officer, and that from the decisions of the board of zoning appeals, recourse shall be to the courts as provided by law.

It is further the intent of chapters 2 through 14 of this title that the duties of the board of mayor and aldermen in connection with chapters 2 through 14 of this title shall not include hearing and passing on disputed questions which may arise in connection with the enforcement or interpretation of chapters 2 through 14 of this title, but that the procedure for determining such questions shall be as hereinbefore stated in this section, and that the duties of the board of mayor and aldermen in connection with chapters 2 through 14 of this title shall be only the duty of considering the passing upon any proposed amendments or repeal of chapters 2 through 14 of this title as provided by law and establishing a schedule of fees and charges. (1978 Code, § 11-1308)

CHAPTER 15

SUBDIVISIONS

SECTION

14-1501. Compliance with regulations required.

14-1502. Flood precautions.

14-1501. Compliance with regulations required. The city shall not extend city services and facilities such as water, power, sewer lines, etc., into any subdivided land areas which, if subdivided after November 4, 1960, has not been subdivided or transformed in accordance with the subdivision regulations of the planning commission and approved by said commission. (1978 Code, § 11-1401)

14-1502. Flood precautions. The Sparta Regional Planning Commission shall review subdivision proposals and other proposed new developments to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards. (1978 Code, § 11-1402)

CHAPTER 16

HISTORICAL ZONING COMMISSION

SECTION

- 14-1601. Creation and appointment.
- 14-1602. Procedure.
- 14-1603. Powers and duties.
- 14-1604. Jurisdiction.

14-1601. Creation and appointment. In accordance with Tennessee Code Annotated, § 13-7-403, a historical zoning commission is hereby established. The board of mayor and aldermen shall create a five (5) member historical zoning commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available, and a member of the planning commission, at the time of his appointment. The remaining members shall be appointed from the community in general. Historical commission members shall be appointed by the Mayor of the City of Sparta and shall be confirmed by the board of aldermen. Appointments to membership on the historical zoning commission shall be arranged so that the term of one member shall expire each year but not more than two (2) members shall expire each year and his successor shall be appointed in like manner in terms of five (5) years. All members shall serve without compensation. (1978 Code, § 11-1501)

14-1602. Procedure. Meetings of the historical zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. (1978 Code, § 11-1502)

14-1603. Powers and duties. The historical zoning commission shall have the following powers which shall be limited to the H-1 historical district.

(1) Provide recommendations to the board of mayor and aldermen regarding the establishment and amendment of historic zoning district boundaries.

(2) The historic zoning commission shall develop a set of review guidelines and adopt same after a public hearing, reasonable notice thereof having been given.

(3) To request detail construction plans and related data pertinent to thorough review of any proposal before the commission.

(4) Historical zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or

without conditions or direct the refusal of a building permit providing, the grounds for refusal are stated in writing.

(5) Upon review of the application for a building permit, the historical zoning commission shall give prime consideration to:

(a) Historic and/or architectural value of present structure.

(b) Relationship of exterior architectural features of such structure to the rest of the structures of the surrounding area.

(c) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used.

(d) To any other factor, including aesthetic which is deemed pertinent.

(6) In no case shall the commission grant variances from the terms of this chapter. (1978 Code, § 11-1503)

14-1604. Jurisdiction. The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgement of the commission may have said order of judgement reviewed by the courts by procedures as provided for in Tennessee Code Annotated. (1978 Code, § 11-1504)

CHAPTER 17

BILLBOARDS

SECTION

- 14-1701. Statement of purpose.
- 14-1702. Definitions.
- 14-1703. New billboards.
- 14-1704. Standards.
- 14-1705. Permits.
- 14-1706. Nonconforming billboards.
- 14-1707. Illegal billboards.
- 14-1708. Enforcement.

14-1701. Statement of purpose. Billboards constitute a separate and distinct use of the land upon which they are erected. They are constructed adjacent to public roads to advertise products or services that are offered elsewhere. As such, they depend upon the public roads to create the market for their advertising.

It is the purpose of this chapter to establish reasonable and impartial regulation of billboards in the City of Sparta under the city's zoning and police powers to accomplish the following goals:

- (1) To protect and promote public safety, health, convenience, and general welfare by decreasing the risk of traffic hazards which distract, confuse, or impair the visibility of motorists and pedestrians and by increasing the effectiveness of signs needed to direct the public;
- (2) To protect the public investment in streets and highways;
- (3) To enhance public prosperity and the general welfare by minimizing adverse effects upon the natural scenic beauty and by providing an attractive visual environment in the City of Sparta so that it is a more desirable place to live, visit, and conduct business; and
- (4) To protect property values by insuring compatibility with surrounding land usage and by insuring light, air, and open space.

The regulations contained in this chapter directly advance these significant governmental interests. (1978 Code, § 11-1601)

14-1702. Definitions. (1) "Administrator." City administrator or person designated by the city administrator.

(2) "Billboard." Any sign which displays commercial or noncommercial advertising or on which any other matter may be displayed, depicting goods, services, or other things not sold or available upon the parcel of property on which the signs are located. These signs are commonly known as outdoor advertising, billboards, or poster panels and are classified as off-premise signs.

The following types of signs are not intended to be regulated by the provisions of this chapter:

(a) "Directional signs" not exceeding 3 square feet in area providing such sign only directs motorists to the location of off-street businesses.

(b) "Political signs" displayed on private property with the consent of the owner and;

(c) "Public signs" such as governmental informational, traffic, directional, or regulatory signs or notices of the federal, state, county or city government or their public agencies.

(d) "Real estate signs" with copy on either one or both sides provided that only one sign may be erected for each street frontage of the parcel of property or unit offered for sale, lease, or rent and such sign does not exceed 4 square feet in area.

(e) "Shopping center signs" which display center identification or directories and are located upon the business site and provided such signs display only the name of the center and its occupants with no other signs attached to the structure.

(f) "Temporary signs" announcing any public, charitable, educational or religious event or function provided such signs do not exceed 24 square feet in area and are erected not more than 14 days prior to the event and removed not more than 3 days after its termination.

(3) "Erect." To assemble, construct, build, raise, place, install, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(4) "Illegal sign." Any sign erected or maintained in violation of a preceding ordinance or erected, altered, removed, or replaced in violation of this chapter.

(5) "Illuminated." Lighted by any direct or indirect, external or internal source of light or the reflection of any such light.

(6) "Nonconforming billboard." Any billboard which was lawfully erected prior to the date of passage of this ordinance. Off-premise billboards which were illegal under any prior ordinance remain illegal under this ordinance and are not nonconforming billboards.

(7) "Person." Any natural person, firm, partnership, corporation, company, association, trust or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee, or other similar representative thereof.

(8) "Sign." Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city or any fraternal

religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields.

(9) "Total sign area or surface display area." The sign area is measured by finding the area of the minimum imaginary rectangle or square of the vertical and horizontal lines which fully encloses all extremities of the billboard, including the outer extremities of all letters, characters and background area. Structural support elements not a part of the billboard and any appurtenances required by the building code are not included in the computation of this area.

All faces and any air spaces separating the sign faces are included in the computation of total sign area. For multiple-faced billboards, the maximum number of advertising surfaces visible from any location will be counted in determining total sign area. (1978 Code, § 11-1602, as amended by Ord. #21-940, Oct. 2021 *Ch14_04-21-22*)

14-1703. New billboards. No billboard shall be erected or maintained unless it is located in a Manufacturing/Industrial (M-1) or Commercial D (C-D) zoning district and is in compliance with the regulations specified in this chapter. (1978 Code, § 11-1603)

14-1704. Standards. Any billboard erected after the effective date of this ordinance shall comply with the standards set forth in this section. Any previously erected billboard which does not comply with these standards is hereby declared to be a nonconforming billboard and must comply with these standards only as indicated in § 14-1706.

(1) Location and setback. (a) No billboard shall be located in such a position that it obstructs or obscures the view of vehicular or pedestrian traffic in such a manner as to endanger the safe movement thereof.

(b) Each billboard shall be set back at least 15 feet from any road or street right-of-way line, measured from the closest part of the billboard.

(c) No billboard shall be permitted whenever property zoned residential would be between the sign and the roadway toward which it is oriented.

(d) No part or foundation or support of any billboard shall be placed on, in, or over any private property without the written consent of the property owner.

(e) No part or foundation or support of any billboard shall be placed on, in, or over any public property, including public right-of-ways or any utility or drainage easement, or upon telephone or utility poles.

(f) No billboard shall be erected or maintained upon or above the roof of any building structure.

(g) Except for billboards erected along State Highway 111, no billboard shall be erected within 1000 feet of the nearest property line of

any of the following: historic site, school, church, hospital, retirement or nursing home, cemetery, governmental building, public park, playground, recreation area, convention center or any area in which billboards are prohibited under § 14-1703.

Billboards erected along State Highway 111 shall not be erected within 500 feet of the nearest property line of any of the following: historic site, school, church, hospital, retirement or nursing home, cemetery, governmental building, public park, playground, recreation area, convention center or any area in which billboards are prohibited under § 14-1703.

(h) Intersections. For billboards located along State Highway 111, no structure shall be erected closer than 500 feet from the centerline of an intersecting street or highway.

(2) Spacing. No two billboards located upon, or oriented towards traffic traveling upon the same side of a public street or road with four or more lanes shall be spaced less than 1000 feet apart.

The spacing shall be no less than 1500 feet apart on the same side of public streets or roads with less than four lanes.

This distance shall be measured along a straight line between the two nearest points of the billboards. The minimum spacing requirement shall not apply to two panels viewed from different directions which share a common support structure.

Nor shall any billboard be located within a 500 foot radius of any other billboard even though the two billboards are on different streets.

(3) Size and shape. (a) For billboards located along State Highway 111, no billboard shall exceed 775 square feet in total surface display area and no billboard shall exceed 36 feet in length.

(b) For billboards located along State Highway 111, billboards may be multiple-faced but the total surface display area shall not exceed a total area of 775 square feet and any multiple-faced billboard structure shall have advertising surfaces of equal size and shape.

(c) For billboards located along all other streets and highways, no billboard shall exceed 300 square feet in total surface display area and no billboard shall exceed 30 feet in length. Billboard structures may be single faced only.

(d) Rectangular extensions which result in the addition to the total square feet of advertising surface are not allowed to be added to existing billboards.

(e) No billboard shall be permitted which, because of its size, shape, or location, may obscure or obstruct the view of vehicular or pedestrian traffic or be confused with any authorized traffic control sign, signal, or device.

(4) Height. (a) There are no maximum height restrictions for billboards.

(5) Lighting. (a) No billboard shall be so illuminated that it interferes with or obscures an official traffic sign, device or signal.

(b) No billboard shall be so illuminated that the light intensity or brightness adversely affects the safe vision of operators of vehicles moving on public or private roads, highways or parking areas, or of pedestrians.

(c) Flashing billboards are prohibited. In addition, no billboard shall contain or be illuminated by revolving, rotating, animated or any other form of moving light or lights.

(d) Any light from any illuminated billboard shall be shaded, shielded, or directed so that the light intensity or brightness shall not adversely affect the surrounding or facing premises. Light shall not shine directly on or into residential structures.

(6) General maintenance. (a) Every billboard and its supports, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All billboards shall be kept free from defective or missing parts or peeling paint and shall be able to withstand wind.

The administrator or his representative shall possess the authority to order the painting, repair, or alteration of a billboard which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. Notice to the owner shall be by personal service or registered mail, return receipt requested or by posting in a conspicuous place on the premises on which the billboard is located and advertising in a newspaper once a week for three weeks if the owner cannot be located. Notice shall state that if the owner does not correct the problem identified in the order in the manner specified within 30 days, the City of Sparta will, at the owner's expense, either perform the necessary maintenance or repairs or remove the billboard.

If the owner fails to comply with the order to repair, improve, or remove the structure as specified in the preceding section hereof, the administrator may cause such structure to be repaired, improved, removed, or demolished.

The amount of the cost of such repairs, improvements, alterations, removal, or demolition by the City of Sparta shall, upon the filing of the notice with the office of the register of deeds of White County, be a lien on the property in favor of the taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the City of Sparta as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the

same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

The administrator may, without notice, repair or remove any billboard that presents an immediate threat to the health, safety and welfare of the community.

(b) The immediate premises around a billboard shall be kept free from debris. However, no person may damage, trim, destroy, or remove any trees, shrubs or other vegetation located within the right-of-way of any public street or road for the purpose of increasing or enhancing the visibility of any billboard. Nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(7) Other codes. Any billboard permitted under this chapter must comply with any applicable requirements of the building code, electric safety code, and other applicable federal, state, or local codes. (1978 Code, § 11-1604)

14-1705. Permits. (1) General. After the effective date of this ordinance, no billboard shall be erected, significantly altered, replaced or relocated unless a billboard permit has been obtained from the administrator in accordance with this section.

(2) Application requirements. No billboard permit shall be issued unless all of the requirements contained in this chapter have been complied with and the following steps have been completed.

(a) An application provided by the City of Sparta must be filed with the administrator. This application shall contain the following information:

(i) The billboard owner's name, address and telephone number;

(ii) Property owner's name, address and telephone number and (if different) the name of the person in possession of the premises where the billboard is located or is to be located;

(iii) The name, address and telephone number of the person who will be performing the work requested;

(iv) Location and zoning designation of the parcel on which the billboard is and/or will be located;

(v) The cost of construction and installation of the billboard and the cost of any alteration;

(vi) Any other information the administrator shall require to ensure compliance with this and all other applicable ordinances of the City of Sparta.

(b) The following items must accompany this application:

(i) A signed statement by the applicant that the proposed billboard will not violate the standards of § 14-1704;

(ii) A surveyed site plan legibly drawn to scale and sufficiently detailed as to acquaint the administrator with the location and dimensions of the billboard; the location, proximity and size of all surrounding buildings and structures; the location, proximity and size of all existing or proposed billboards within the minimum spacing distance of the proposed billboard; all roadways, sidewalks and public rights of way adjacent to the site;

(iii) A photograph of the proposed location;

(iv) Plans and specifications and details (as applicable) such as the construction materials to be used, manner of illumination, components, method of support, condition and age of the billboard;

(v) Written consent of the landowner.

(c) No permit shall be issued unless the applicant has paid the requisite fees established by this chapter. The permit fee shall be \$100. All fees received pursuant to this section shall be paid to the city's treasury and placed in a fund for the administration of this chapter.

(3) Issuance of permit. (a) Each site shall be inspected as soon as possible to verify the information in a completed application and, whenever possible, a decision on the permit shall be made within 30 working days of the receipt of all required documents and fees in the administrator's office.

(b) Each billboard permit shall become null and void if the activity approved in the permit is not completed within six months from the date the permit is issued.

(c) Once the authorized work is completed satisfactorily and a permit issued for the billboard, the permittee shall affix a tag to the structure in such a place and position that it is visible at eye level for inspection. The tag shall contain the following information: permit identification number, date installed, name and phone number of the billboard owner.

(d) The administrator shall maintain accurate records of all billboard permits issued by the City of Sparta, which records may serve as the basis for a comprehensive inventory.

(4) Renewal and subsequent inspection. Each billboard permit must be renewed every year. The billboard owner shall submit to the administrator any changes in the information contained in the original permit application and an annual inspection fee of \$50. If the fee is not paid within 30 days of notice, then the billboard shall be considered illegal and subject to removal by the City of Sparta.

In July of each year, the codes enforcement officer shall make an annual inspection of existing billboards to ensure compliance with the provisions of this

chapter and all other applicable codes. The codes enforcement officer shall maintain records of all inspected billboards.

(5) **Violation.** The issuance of a billboard permit shall in no instance be construed as waiving any portions of this chapter. If any person commences any work on a billboard before obtaining the necessary permit, or if a permit is issued despite the violation of any provision of this chapter, or if the location or specifications of the billboard vary from the approved design or location, the person shall be subject to the penalty prescribed in § 14-1708(3) of this chapter and the billboard shall be removed as an illegal billboard pursuant to § 14-1707.

In addition to the sanctions in those sections, the administrator shall revoke a billboard permit for failure of the holder to conform with any of the provisions of this chapter. All rights and privileges acquired under the provisions of this chapter, or any amendment thereto, are mere licenses revocable at any time. (1978 Code, § 11-1605)

14-1706. Nonconforming billboards. Any billboard legally in existence prior to the effective date of this ordinance is declared to be a nonconforming use and as such, is subject to the provisions of the Tennessee Code Annotated, § 13-7-208(d)(1989) pertaining to nonconforming uses. (Note: See *Creative Displays, Inc. v. City of Pigeon Forge*, 576 S.W.2d 356 [1978] in which the Court of Appeals of Tennessee determined that the nonconforming use statutes are applicable to billboards). (1978 Code, § 11-1606)

14-1707. Illegal billboards. Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any billboard which was erected in violation of any prior ordinance of the City of Sparta. Moreover, billboards erected or altered in violation of any prior ordinance may be removed as provided in this section.

Any violation of the provisions of this chapter by any person is declared to be a public nuisance. Upon ascertaining a violation the provisions of this chapter, the administrator shall cause to be served upon both the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate which shall:

- (1) Describe the conditions constituting a nuisance under this chapter;
- (2) Revoke the permit; and
- (3) Require removal within 30 days of the notice. After this time, the City of Sparta, its officials, or its employees shall have the authority to enter upon the private property upon which the billboard is located for the purpose of removing the billboard without civil or criminal liability and/or institute appropriate action to have the billboard removed. (1978 Code, § 11-1607)

14-1708. Enforcement. (1) **Administration.** The city administrator, or person otherwise designated by the city administrator, shall have primary responsibility for the administration and enforcement of this chapter and is

hereby given full authority to enforce any and all provisions of this chapter. In addition to the duties specified in other portions of this chapter, the administrator shall have the power to:

- (a) Receive billboard applications;
- (b) Make inspections of all billboards and premises upon which billboards are situated to confirm information contained in an application or any other information relating to a permit application;
- (c) Maintain records, inventories and maps concerning billboards;
- (d) Register nonconforming billboards;
- (e) Make such other inspections as are necessary to ensure compliance with the provisions of this chapter, any other applicable regulations, and the terms of any billboard permit;
- (f) Issue the requisite notice and take the appropriate, authorized steps to enforce this chapter;
- (g) Interpret the general intent or meaning of any provision of this chapter.

(2) Complaints. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint with the administrator. Such complaint shall state fully the causes and basis thereof. The administrator shall officially record such complaint, immediately initiate investigations, and take such actions thereon as are required by the provisions of this chapter.

(3) Penalties. The administrator shall revoke the permit of any person for failure to conform to any provisions of this chapter. Any person failing to comply with its requirements shall also be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to the general penalty clause of this code (Ordinance #500, Section 5). Each and every day, or portion thereof, on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Nothing herein contained shall prevent the City of Sparta or any affected adjacent or neighboring property owner from taking such other lawful action as is necessary to prevent or remedy any violation.

Prior to invoking the provisions of this section, the administrator shall give notice either by certified mail, return receipt requested, or by personal service to the owner of the billboard. Such notice shall specify the basis for the alleged violation. The owner shall be responsible for any cost for the removal of unlawful billboards.

(4) Appeal. Any person aggrieved by any action of the administrator or his designated representative may, within the 10 days after receiving notice of such action taken, appeal the action in writing to the board of zoning appeals, in which case such matter shall be scheduled for hearing by said board of zoning appeals at the next regular meeting or special meeting called for such purpose, no later than 20 days after the filing of the appeal. Any action by either the

administrator or the billboard owner, which has been appealed, shall be suspended pending final decision of the said board of zoning appeals of the appeal. The appeal shall be heard at a public hearing after notice is issued to the public. Following the hearing of any such appeal, the board may affirm, reverse, or modify the action which would have been authorized in the first instance. The action of the board on such appeal shall be final and conclusive. (1978 Code, § 11-1608)

CHAPTER 18

SPECIFIC REGULATIONS FOR CHILD DAY CARE FACILITIES

SECTION

14-1801. General information.

14-1802. Home occupation/accessory use in a residence.

14-1803. An accessory use at church, school, industry or commercial business.

14-1804. Principal use of a structure.

14-1805. Summary chart.

14-1801. General information. (1) All state-licensed child day care operations will be classified as one of the following: As a home occupation/accessory use in a residence, as an accessory use at church or industry or other commercial business, or as the principal use of a structure.

(2) All existing licensed day cares. Those in operation at time of adoption of these regulations will be allowed to continue operation, providing:

(a) Owner/operator provide off-street parking and loading area(s) in order to reduce traffic congestion and promote safety that can occur during drop-off and pick-up times.

(b) Owner/operator must obtain annual city business license.

(c) Owner/operator must register facility and use with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(d) Annual inspection by city building inspector.

(e) Any facility ceasing to operate over 90 days must meet all new regulations.

(3) Unlicensed in-home day-care. Certain small operations (for example, up to 4 non-resident children) do not require state licensing and therefore would not have to meet the requirements of this section, but are strongly advised to register with the city and emergency services for safety purposes and provide off-street parking and loading areas. (As added by Ord. #99-724, Nov. 1999)

14-1802. Home occupation/accessory use in a residence. A "Family Day Care" (7 children) and "Group Day Care" (12-15 children), as described and licensed by State of Tennessee Department of Human Services, that is located within the owner/operator's residence and operated as an accessory use/home occupation. The principal use of the structure is the home of the owner/operator of the day care.

(1) Where permitted. (a) All R Districts -- Use permitted upon appeal, subject to review and approval by board of zoning appeals.

(b) All C or M Districts -- Permitted, subject to site plan parking plan review by planning commission.

- (2) General requirements. (a) Minimum lot size:
- (i) R Districts -- Family Day Care minimum 10,000 sq. ft.
 - (ii) R Districts -- Group Day Care minimum 20,000 sq. ft.
 - (iii) C & M Districts -- Family or Group Day Care minimum 10,000 sq. ft.
- (b) In R-Districts, the facility must operate in daytime hours only, with no keeping of children during evening and overnights, such as 2nd and 3rd shift time periods.
- (c) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.
- (d) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.
- (e) Fenced play area(s) cannot be located in front yard. When in a side yard or rear yard, not within 20 ft. of any street right-of-way. In R districts, fenced play area must be at least 20 ft. from an adjoining property line if the adjoining house is less than 15 ft. from common property line.
- (f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading area must be off-street and out of traffic. Parking spaces must be paved and equal to half the maximum capacity of day care facilities + 2 spaces for household use + 1 space per employee.
- (g) In general the day care operation should be located within the principal dwelling, but may under special circumstances be permitted in an accessory building, such as a remodeled garage.
- (h) One sign permitted: Max. 1 sq. ft. size in R Districts; max. 12 sq. ft. sign in C or M Districts.
- (i) Owner/operator must obtain annual city business license.
 - (j) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.
 - (k) Annual inspection by city building inspector.
- (3) Site plan-parking plan requirement and review by PC or BZA. Prior to applicable board meeting (PC or BZA), the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:
- (a) Location of dwellings and various features of property, including size and dimension of property, tax map ID info.
 - (b) Distances to any adjoining dwellings and adjoining property owners' names.
 - (c) Names of adjoining property owners.
 - (d) Location of proposed fenced play area(s).

(e) Location of off-street parking and loading areas, entrance(s) and exit(s) from streets. (As added by Ord. #99-724, Nov. 1999)

14-1803. An accessory use at church, school, industry or commercial business. A group day care center or child care center, as described and licensed by State of Tennessee Department of Human Services, and operated within a church building, school, within an industry or other commercial business, is considered to an "accessory use" to the main use of the premises.

(1) Where permitted. (a) Permitted as an "accessory use" to a church in all districts, subject to review and approval of site plan-parking plan by planning commission.

(b) Accessory use to an industry in M-1 District, subject to review and approval of site plan-parking plan by planning commission.

(c) Accessory use to a commercial business in any C District, subject to review and approval of site plan-parking plan by planning commission.

(2) General requirements. (a) No minimum lot size.

(b) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.

(c) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.

(d) Fenced play area(s) cannot be located within 20 ft. of any street right-of-way.

(e) The facility generally will be located within the principal building, however may instead be located within a secondary building on the same property.

(f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading areas must be off-street and out of traffic. Parking spaces must be paved and equal to half the maximum capacity of day care facility + 1 space per employee + 1 space per van or bus used by facility, if applicable. No backing of vehicles into street.

(g) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(h) Annual inspection by city building inspector.

(3) Site plan-parking plan requirement and review by PC or BZA.

Prior to PC meeting, the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:

(a) Location of structure(s) and various features of property, including size and dimensions of property, tax map ID info.

- (b) Distances to any adjoining dwellings and adjoining property owners' names.
- (c) Location of proposed fenced play area(s).
- (d) Location of off-street parking and loading areas, entrance(s) and exit(s) from streets. (As added by Ord. #99-724, Nov. 1999)

14-1804. Principal use of a structure. Group day care (up to 15 children) or child care center (over 15 children and unlimited size), as described and licensed by Tennessee Department of Human Services, that operates as the principal use of the structure, without the owner/operator residing on the premises. The building may have been built specifically for a day care center, or be housed in a building that formerly was a home or another business. (Includes Head Start)

- (1) Where permitted. (a) All R Districts -- Use permitted upon appeal, subject to review and approval by board of zoning appeals.
 - (b) All C and M Districts -- Permitted, subject to site plan parking plan review and approval by planning commission.
 - (c) General location. Whether this type of facility would be permitted depends on the size of the facility, its location and the type of street on which the building is located. The larger facilities are a traffic generator, predominantly mornings and late afternoons, and generally not suitable for a typical single-family neighborhood. It is preferable that the use be located on an arterial or collector street or highway and/or in a transitional or mixed-use neighborhood, rather than in a predominantly single-family housing subdivision or neighborhood. Due to specific requirements for off-street parking and loading areas, it is also essential that there be sufficient street access (driveway cuts) so that cars are not backing into traffic nor having to park along side of roadway.
- (2) General requirements. (a) Minimum lot size:
 - (i) R Districts -- Group Day Care minimum 20,000 sq. ft.
 - (ii) R Districts -- Child Care Center minimum 1 acre.
 - (iii) C & M Districts -- Either type minimum 20,000 sq. ft.
 - (b) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.
 - (c) In R-Districts, the facility must operate in daytime hours only, with no keeping of children during evening and overnights, such as 2nd and 3rd shift time periods.
 - (d) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.
 - (e) Fenced play area(s) cannot be located in front yard. When in a side yard or rear yard, not within 20 ft. of any street right-of-way. In R districts, fenced play area must be at least 20 ft. from an adjoining

property line if the adjoining house is less than 15 ft. from common property line.

(f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading areas must be off-street and out of traffic. Parking spaces must be paved and equal to half maximum capacity of day care facility + 1 space per employee + 1 per van or bus operated by the day care facility. No backing into streets.

(g) Sign: In R Districts maximum 1 sq. ft. in size; in C or M Districts maximum 20 sq. ft.

(h) Owner/operator must obtain annual city business license.

(i) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(j) Annual inspection by city building inspector.

(3) Site plan-parking plan requirement and review. Prior to applicable board meeting (planning commission or board of zoning appeals), the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:

(a) Location of dwelling and various features of property, including size and dimensions of property, tax map ID info.

(b) Distances to any adjoining dwellings and names of adjoining property owners.

(c) Location of proposed fenced play area(s).

(d) Location of off-street parking and loading areas, entrance(s) and exit(s) from road. (As added by Ord. #99-724, Nov. 1999)

**CERTAIN PARTS OF SPARTA ZONING REGULATIONS
AND PROPOSAL FOR AMENDMENTS**

	All R-Districts	All C-Districts	M-District
Current Zoning Regulations:			
Schools (Public or Private Elem. or HS)	Permitted Use No Review	Not Permitted	Not Permitted
Churches and Sunday Schools	Permitted Use No Review	Not Permitted	Not Permitted
In-Home Small Day Care	Permitted Use No Review	Not Permitted	Not Permitted
Child Care Centers	Not Permitted	Permitted in C-D No Review Not Permitted in C-A, C-B, C-C	Not Permitted
Proposed Changes:			
In-Home Occupation Family Day Care (up to 7 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Time of Operation	Daytime only		
In-Home Occupation Group Day Care (up to 12-15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	20,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Time of Operation	Daytime only		
Accessory Use at a Church, School, Business or Industry	Site Plan Review by PC	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	N/A	N/A	N/A
Principal Use Group Day Care (up to 12-15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Time of Operation	Daytime only		
Child Care Center (over 15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	1 acre	20,000 sq. ft.	20,000 sq. ft.
Time of Operation	Daytime only		

(As added by Ord. #99-724, Nov. 1999)

CHAPTER 19**MINIMUM DESIGN STANDARDS FOR TELECOMMUNICATIONS
TOWERS AND STATIONS****SECTION**

14-1901. Intent.

14-1902. Standards for telephone, telegraph, and communication transmitter stations and towers.

14-1903. Application requirements.

14-1901. Intent. It is the intent of this section to avoid potential damage to property caused by towers and telecommunication facilities by ensuring such structures are soundly and carefully designed, constructed, modified, and maintained, while ensuring such towers are compatible with the surrounding land uses. The purpose of this section is also to promote and encourage shared use/co-location of such towers and antenna support structures as a primary option, rather than the construction of single-use towers. (as added by Ord. #02-756, Nov. 2002)

14-1902. Standards for telephone, telegraph, and communication transmitter stations and towers. All transmitter stations, including towers and operating equipment located within the City of Sparta shall adhere to the following standards:

(1) **Design requirements.** All towers with a height of one hundred fifty (150) feet (from base to top) or more shall be constructed in accordance with Electronics Industries Association ("EIA") standard 222E-1996 utilizing a wind rating of eighty miles per hour (80 MPH) plus ice loading for Sparta, Tennessee. Each application for a building permit shall be accompanied by a certification of a professional licensed engineer in the State of Tennessee who is competent and qualified to do telecommunications design.

(2) **Setback requirement.** (a) **Residential districts.** All tower in any residential district shall be set back from all property lines a distance that is equal to:

(i) For a guyed tower, one hundred percent (100%) of its maximum height, or

(ii) For a self supporting tower, one hundred twenty-five percent (125%) of its maximum height, and

(iii) Until such time as the tower is removed from the site, the entire setback area is to be held under lease, ensuring public safety by eliminating the possibility of further development in the setback area.

(b) **Commercial and industrial districts.** All towers in any commercial or industrial district shall be set back from all property lines a distance that is equal to:

- (i) For a guyed tower, forty percent (40%) of its maximum height, or
 - (ii) For a self supporting tower, fifty percent (50%) of its maximum height, and
 - (iii) Until such time as the tower is removed from the site, the entire setback area is to be held under lease, ensuring public safety by eliminating the possibility of further development in the setback area.
- (3) Fencing. The immediate tower site in either fee simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.
- (4) Screening. Where the tower abuts or is contiguous to any residential zone, there shall be provided a continuous, solid screening, and it shall be of such plant materials as will provide a reasonable year-round evergreen screening. Screening herein shall not be less than four (4) feet in height at the time of planting, and shall be permanently maintained by the leaseholder or owner of the subject property. (See definition of buffer strip in the definition section.)
- (5) Tower illumination. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-hundred percent (300%) of the height of the tower and when required by federal law, dual mode lighting shall be requested from the FAA.
- (6) Parking and access. The access drive to the site shall be passable, being adequate for use by automobile and small truck. There shall be two (2) improved parking spaces on-site.
- (7) Location and co-location. Every effort shall be made to co-locate on existing towers or facilities. If the existing facilities are unsuitable (either technologically or topographically), or no facilities exist, the tower shall be made available to others for co-location. The tower shall be designed to allow, at a minimum, at least two (2) additional co-locators.
- (8) FAA and FCC standards. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal governments with the authority to regulate towers and antennas.
 - (a) If such standards and/or regulations are changed, the owners of the towers and/or antennas governed by this chapter shall bring such towers and/or antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency.
 - (b) Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (9) Structural integrity and maintenance of towers. The owner of the towers and/or antennas governed by this chapter shall ensure the structural integrity of the tower and/or antenna is maintained in compliance with standards

contained in applicable state and local building codes and the applicable standards for towers that are the most recently published and amended by the Electronic Industries Association.

(a) If, upon inspection, the City of Sparta concludes that a tower and/or antenna fails to comply with such codes and standards and constitutes a danger to persons and/or property, then upon notice being provided to the owner of the tower and/or antenna, the owner shall have thirty (30) days to bring such tower and/or antenna into compliance with such standards.

(b) Failure to bring towers and/or antennas into compliance with such revised standards and regulations within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owners expense. (as added by Ord. #02-756, Nov. 2002)

14-1903. Application requirements. An application to develop a transmission and communications tower shall include at a minimum the following:

(1) A "Determination of No Hazard" from the Federal Aviation Administration, as well as all required Federal Communications Commission Permit information.

(2) Documentation that the entire setback area (as defined in Article III, Section 13, A3), is under lease.

(3) The names, addresses, and telephone numbers of all owners of other communications/transmission towers or support structures within a one-half mile (½) radius of the proposed new tower site, including city-owned property.

(4) An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or co-locate the project applicant's telecommunications facilities on towers or useable antenna support structures owned by the city or other persons within a one-half (½) mile radius of the proposed tower site.

(5) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facility cannot be installed or co-located on any other tower or antenna support structure within a one-half (½) mile radius of the proposed tower site. Evidence must show one (1) or more of the following reasons:

(a) The equipment would exceed the structural capacity of the existing approved tower and facilities.

(b) The planned equipment would cause frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

(c) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively.

(d) Other reasons make it impractical to place the proposed equipment by the applicant on existing towers or facilities. (as added by Ord. #02-756, Nov. 2002)

CHAPTER 20

MINIMUM LANDSCAPING REQUIREMENTS

SECTION

- 14-2001. Purpose and intent.
- 14-2002. Applicability.
- 14-2003. Plan required.
- 14-2004. Maintenance and replacement.
- 14-2005. Landscaping requirements.
- 14-2006. Screening and buffer yard requirements.
- 14-2007. Illustrations.

14-2001. Purpose and intent. The purpose of this section is to provide minimum standards for the provision of landscaping, screening and buffer yards within the City of Sparta. (as added by Ord. #03-773, Dec. 2003)

14-2002. Applicability. The standards of this section shall apply as follows:

(1) New development. All new development, excluding individual single family shall comply with the standards of this section.

(2) Expansion of existing development. For expansions of existing development (development in existence prior to the adoption of this zoning code) the following shall apply:

(a) Cumulative expansions of existing development not exceeding twenty-five (25) percent of the existing gross floor area and not requiring or involving additional parking areas shall be exempt from the provisions of this section.

(b) Cumulative expansions of existing development exceeding twenty-five (25) percent of the existing gross floor area shall be required to provide landscaping at a percentage equal to or exceeding the percentage of the expansion.

(c) Any parking lot constructed as a result of the expansion or change in use of an existing development shall comply with the provisions of § 14-2005(2) of this zoning code.

(3) Change of use. Any change of use that results in the property becoming a higher impact use shall comply with the screening and buffer yard requirements of § 14-2006 of this zoning code. (as added by Ord. #03-773, Dec. 2003)

14-2003. Plan required. For all uses or structures requiring landscaping and/or screening and buffer yards, a plan or plans shall be submitted to the codes official with the required site plan. In reviewing the landscape and/or screening and buffer yard plans, the codes official shall seek the guidance of the Sparta Tree

Board and/or this landscape chapter. Plans shall be drawn to scale with a north arrow and any interpretive legends and shall include the following:

- (1) Location and size of landscape yards, landscape strips within parking areas, screening areas and buffer yards.
- (2) Plant schedule containing the following:
 - (a) Quantity of each plant material.
 - (b) Common and botanical names of plant material.
 - (c) Size and spacing of all proposed landscape material at time of planting.
- (3) Planting standards to ensure conformance with industry standards.
- (4) Existing landscaping materials on site that were previously required by the zoning code.
- (5) Existing plant materials and areas to be left undisturbed.
- (6) Methods and details for protecting existing plants.
- (7) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, fountains, street furniture, lights, or similar items.
- (8) Location of existing and proposed buildings.
- (9) Parking layout and traffic patterns.
- (10) Location of all overhead and underground utilities.
- (11) Landscaping plans for new and existing construction of buildings over 5,000 square feet or greater than two (2) stories shall be prepared in compliance with the provisions of § 62-2-102 of the Tennessee Code. (as added by Ord. #03-773, Dec. 2003)

14-2004. Maintenance and replacement. Trees, shrubs, fences, walls and other landscape and/or screening and buffer yard features installed to meet the requirements of this section and depicted on plans approved by the codes official shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan. The landowner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

- (1) Regular maintenance shall be provided so that all landscaping and/or screening and buffer yards remain in good condition and present a healthy, neat and orderly appearance. All landscaping shall be maintained so that it is free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. It is recommended that an irrigation system be installed.
- (2) Required landscaping and/or screening structures, such as walls and fences, shall be repaired or replaced so that they remain in a structurally sound condition.

(3) Failure to maintain required landscaping and/or screening and buffer yards shall be a violation of this zoning code and subject to penalties as specified. (as added by Ord. #03-773, Dec. 2003)

14-2005. Landscaping requirements. The provision of trees, shrubs and vegetation contributes to a desirable quality of life for residents and visitors by producing an aesthetically pleasant and healthy environment. The following requirements shall be considered as the minimum standards for the protection of natural plant communities and features and for the planning and continued maintenance of installed landscaping within the City of Sparta.

(1) Landscape yards. Landscape yards shall be provided in all districts except the Central Business District (C-C) and for all uses and structures except those specifically exempted in § 14-2002. The requirements for landscape yards shall be in addition to any requirements of parking area landscaping as specified in § 14-2005(2) of this zoning code. Said landscape yards shall meet the following requirements:

(a) Establishment of landscape yards. Landscape yards shall be established along all abutting streets within required front, side and/or rear yard setback areas.

(b) Minimum width of landscape yards. The minimum width of the landscape yard shall be ten (10) feet, exclusive of curbing. See Illustration 1,¹ "Landscape Yards".

(c) Number of trees required. One (1) shade tree, or two (2) ornamental trees shall be planted per every fifty (50) linear feet, or any fraction thereof, of street frontage.

(d) Standards for trees in landscape yards. Trees for landscape yards shall meet the requirements of § 14-2005(3) of this zoning code.

(e) Location of trees in landscape yards. Unless specified by the building official, trees may be spaced or grouped at the discretion of the developer. Trees shall not be located so as to impair visibility at any street intersection or at the intersection of any driveway with a street.

(f) Trees located underneath utility lines. When the landscape yard occurs underneath utility lines, ornamental trees whose mature height does not exceed twenty (20) feet shall be planted at a rate of one (1) tree for each fifty (50) feet of frontage occurring under utility lines.

(2) Parking area landscaping. The following standards for landscaping of parking lots shall apply to the interior of all off-street parking areas. They shall not apply to vehicle and equipment sales lots, multi-level parking structures, areas devoted to drive-through lanes, or to vehicle and equipment storage areas.

(a) Minimum width of interior landscaped strips. Interior landscaped strips shall be a minimum of five (5) feet in width, exclusive of curbing, and shall be planted with acceptable indigenous landscaping

¹Illustrations are provided in § 14-2007.

materials. If trees are located in interior landscaped strips, said strips shall be a minimum of eight (8) feet in width, exclusive of curbing. See Illustration 2¹ for examples.

(b) Curbing required. Interior landscaped strips shall be surrounded with a concrete raised curb six (6) inches in height.

(c) Number of trees required. One (1) shade tree shall be provided per thirty (30) parking spaces, or any fraction thereof. If parking spaces do not exceed thirty (30) spaces, trees are recommended but not required in the parking area. A maximum of fifty (50) percent of the required shade trees may be replaced by ornamental trees at a ratio of two (2) ornamental trees for each shade tree replaced.

(d) Standards for terminal islands. The use of terminal islands for rows of parking spaces is encouraged for the location of trees required for interior parking areas. Parking area terminal islands containing trees shall be a minimum of eight (8) feet in width and shall be the length of the two (2) adjacent parking spaces. Landscape terminal islands shall be surrounded with a concrete raised curb six (6) inches in height.

(e) Alignment. In landscape strips or islands the planting of trees in alignment with parking space liens is encouraged to reduce the potential for damage from vehicles.

(f) Standards for trees in parking area landscaping. Trees required for interior parking areas shall meet the requirements of § 14-2005(3) of this zoning code.

(3) General tree planting standards. The following general standards for tree planting shall apply:

(a) Tree sizes. (i) Shade trees shall be a minimum of two (2) inches in caliper.

(ii) Ornamental trees shall be a minimum of one and a half (1½) inches in caliper.

(iii) Evergreen trees shall be a minimum height of six (6) feet at the time of planting.

(b) Location. (i) No tree shall be planted closer than five (5) feet from any street right-of-way, driveway, sidewalk or curb.

(ii) No tree shall be planted closer than ten (10) feet from any fire hydrant, utility pole or street light.

(iii) No tree shall be planted so as to block visibility at any street intersection.

(c) Tree preservation. Preservation of healthy trees, six (6) inches in caliper or greater, shall be credited toward the required number of trees per the following ration: for every six (6) inches of caliper preserved, a credit of one tree shall be granted, provided credit is limited to twenty-five (25) percent of required trees. Curbing placed around preserved trees shall be

¹Illustrations are provided in § 14-2007.

located no closer to the tree than the halfway point between the drip line and the trunk of the tree.

(d) Tree protection during construction. In order to receive credit for an existing tree or grove of trees, an area shall be established at the drip line and the trunk of the tree, which shall not be disturbed by construction activity, excluding mulching. The determination of the drip line shall be as depicted in Illustration 3.¹ This area shall be barricaded and marked with signage during construction. Damage to trees, including injuries resulting from chemical poisoning, concrete wash water, construction equipment, soil compaction, grading, paving and/or other mechanical injuries to the roots, trunk, or branches of the tree that will result in their death within one (1) year of construction shall negate any credit for preservation.

(e) Mixture of trees. Sites with required new trees of ten (10) or more, excluding trees used for required screening shall provide the following variety of trees:

NUMBER OF REQUIRED TREES	MINIMUM REQUIRED VARIETY OF TREES	MAXIMUM PERCENT OF ANY VARIETY
10-19	2	65%
20-29	3	50%
30-39	4	40%
40+	5	35%

(4) Landscape material standards. The following standards shall apply for all landscape materials:

(a) Landscape and plant materials installed to satisfy the requirements of this section shall conform to or exceed the plant quality standards of the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen.

(b) All shade trees shall have a single leader.

(c) Use of riprap or shot rock. The use of riprap, shot rock or similar materials is strongly discouraged and shall only be used to stabilize soil around culverts and drains or where engineering requirements deem necessary for erosion control. Riprap, shot rock or similar materials shall not be used to landscape where erosion can be controlled by vegetation.

(5) Installation. (a) Timing. The codes official, in conjunction with the tree board, shall be consulted to determine the proper time to move and install plant materials so that stress to the plants is minimized. A temporary certificate of occupancy may be issued when extremes in weather or soil conditions are not favorable to landscaping. All planting materials

¹Illustrations are provided in § 14-2007.

shall be completed by the next planting season not to exceed six (6) months time after the issuance of a temporary certificate of occupancy.

(b) Staking. Staking materials shall not be used unless absolutely necessary. If staking is necessary, then the owner shall remove staking materials after one growing season.

(c) Planting. The owner shall ensure that all planting areas including tree pits, hedge trenches and shrub beds are excavated appropriately. All pits shall be a minimum of two (2) feet deep with a width at least twice the diameter of the root ball. The tree shall be deep enough to allow one (1) inch from the crown of the root ball to be above finished grade. Soil within the planting areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the planting area and the adjacent soil strata. Plants shall rest on a well compacted surface.

(d) Planting pits. Planting pits will take into account surface runoff and soil conditions. The owner shall be responsible for proper drainage and the resulting survival of the plants contained within the pit thereof.

(e) Mulching. All planting areas shall be mulched with a three (3) to four (4) inch layer of bark, pine needles, or other suitable material, to cover the complete planting area. Mulch within six (6) inches of the tree trunks shall be no deeper than one-half (½) inch. (as added by Ord. #03-773, Dec. 2003)

14-2006. Screening and buffer yard requirements. Screening and buffer yards are intended to reduce or exclude visual contact between uses and to create impressions of special separation. The following requirements shall apply for all uses or structures requiring screening and buffer yards.

(1) Applicability. Screening and buffer yards are required where the development of a higher impact use abuts a lower impact use as classified in § 14-2006(2).

(2) Impact classification. (a) No impact (N). All permitted uses in the RA zone are considered to have no impact unless a specific use is classified elsewhere. The following uses shall be considered to have no impact regardless of zoning classification: single family and two family residential, parks, and golf courses.

(b) Low impact (L). All permitted uses in the R-B zone are considered to have a low impact unless a specific use is classified elsewhere.

(c) Moderate impact (M). All permitted uses in the C-A, C-B, and C-D zones are considered to have a moderate impact unless a specific use is classified elsewhere. Non-residential uses in the CN zone are also considered to have a moderate impact. The following uses shall be

considered to have a moderate impact regardless of zoning classification: off-site parking lots located in residential district, gasoline service stations, convenience stores, and self-storage or min-warehouses.

(d) High impact (H). All permitted uses in the M-I zone are considered to have a high impact unless a specific use is classified elsewhere. The following uses shall be considered to have a high impact regardless of zoning classification: junk/salvage yards and outdoor storage yards.

(3) Location requirements for screening and buffer yards. The location and type of screening shall be as follows:

(a) Side and rear property lines. Where the side or rear property lines of a proposed higher impact use abut a use or district of a lesser impact, whether or not there is an intervening street or alley, screening and buffer yards shall be provided by the higher impact use along abutting side and/or rear property lines according to the following chart:

**REQUIRED SCREEN/BUFFER YARD TYPE FOR
SIDE AND REAR PROPERTY LINES**

		Proposed Use Classification			
		N	L	M	H
Adjoining Use Classification	N	None	1	2	3
	L	None	None	1	2
	M	None	None	None	1
	H	None	None	None	None

(b) Front property lines: Where the front property line of a proposed higher impact use abuts a use or district of a lesser impact, whether or not there is an intervening street or alley, screening and buffer yards shall be provided by the higher impact use along its front property line according to the following chart:

		Proposed Use Classification			
		N	L	M	H
Adjoining Use Classification	N	None	None	1	2
	L	None	None	None	1
	M	None	None	None	None
	H	None	None	None	None

(4) Description of screens and buffer yards by type. (a) Type 1 screen/buffer yard. A Type 1 screen/buffer yard is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the uses. The buffer yard shall be a minimum of ten (10) feet in

width. The screening shall consist of intermittent visual obstruction to a height of at least ten (10) feet. Screening may be composed of a wall, solid fence (wood, brick, or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The screen may contain deciduous plants. Suggested planting standards that will achieve the requirements for Type 1 screen/buffer yard are depicted on Illustration 4.¹

(b) Type 2 screen/buffer yard. A Type 2 screen/buffer yard is intended to partially block visual contact between uses and to create an impression of the separation of spaces. The buffer yard shall be a minimum of twenty (20) feet in width. The screening shall be completely opaque from the ground to height of three (3) feet, with intermittent visual obstruction above the opaque portion to a height of at least ten (10) feet. Screening may be composed of a wall, solid fence (wood, brick, or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. Deciduous plants may be used to meet the intermittent screening portion of the semi opaque screen. Suggested planting standards that will achieve the requirements for Type 2 screen/buffer yard are depicted on Illustration 5.¹

(c) Type 3 screen/buffer yard. A type 3 screen/buffer yard is intended to exclude all visual contact between uses. The buffer yard shall be a minimum of thirty (30) feet in width. The screening shall be completely opaque from the ground to a height of at least eight (8) feet. A greater height may be required by the building official if it is determined that, due to topographic reasons, the screening will not adequately exclude visual separation. Screening may be composed of a wall, solid fence (wood, brick or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. Suggested planting standards that will achieve the requirements for Type 3 screen/buffer yard are depicted on Illustration 6.¹

(5) Standards for screening materials. (a) When earthen berms are utilized in screening they shall meet the following requirements:

- (i) Shall have a minimum height of three (3) feet.
- (ii) Shall have a minimum crown width of two (2) feet.

¹Illustrations are provided in § 14-2007.

- (iii) Shall have a minimum side slop of 2:1.
- (iv) Shall be planted in grass or other suitable ground cover.
- (b) When fences or wall are utilized in screening, they shall meet the following requirements:
 - (i) Shall be constructed of materials compatible with the principal building.
 - (ii) Wire fencing and unfinished cinder block walls shall not be permitted to meet the screening requirements.
 - (iii) The finished side of all fences and walls utilized to meet the requirements of this section shall face the street or adjoining properties.
- (c) Trees and shrubbery shall be of a species common to the Sparta area, shall be hardy, and proper care shall be taken in planting. (as added by Ord. #03-773, Dec. 2003)

14-2007. Illustrations.

Illustration 1

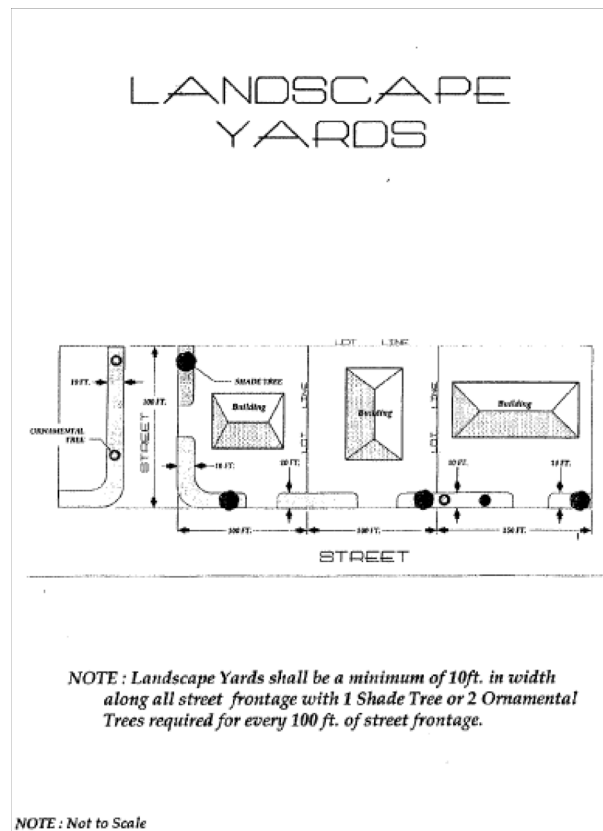
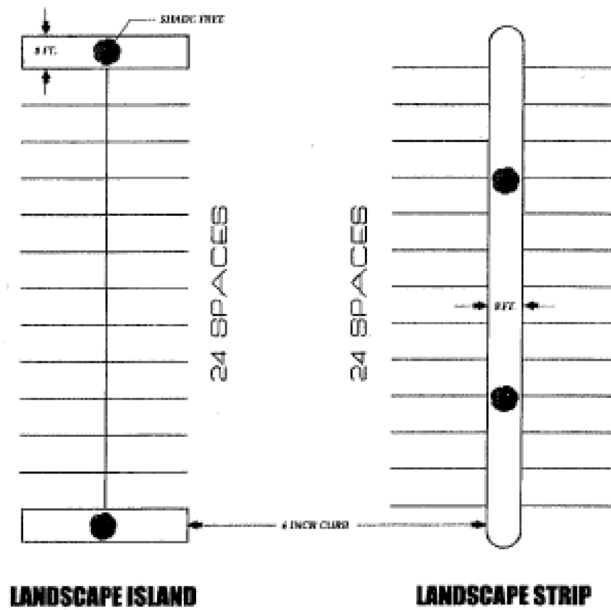


Illustration 2

EXAMPLES OF INTERIOR PARKING AREA LANDSCAPING

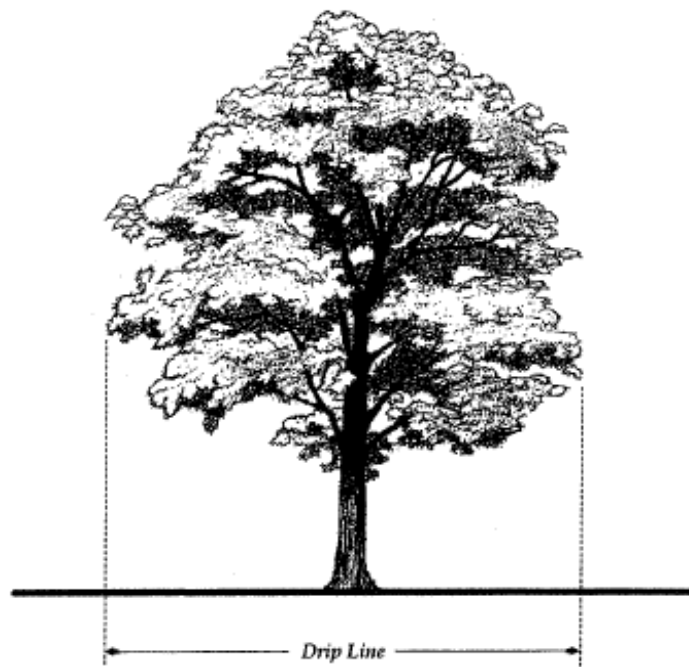


*NOTE : 1 Shade Tree shall be provide per every
20 parking spaces, or any fraction thereof.*

NOTE : Not to Scale

Illustration 3

DETERMINATION
OF
DRIP LINE



NOTE : Not to Scale

Illustration 4

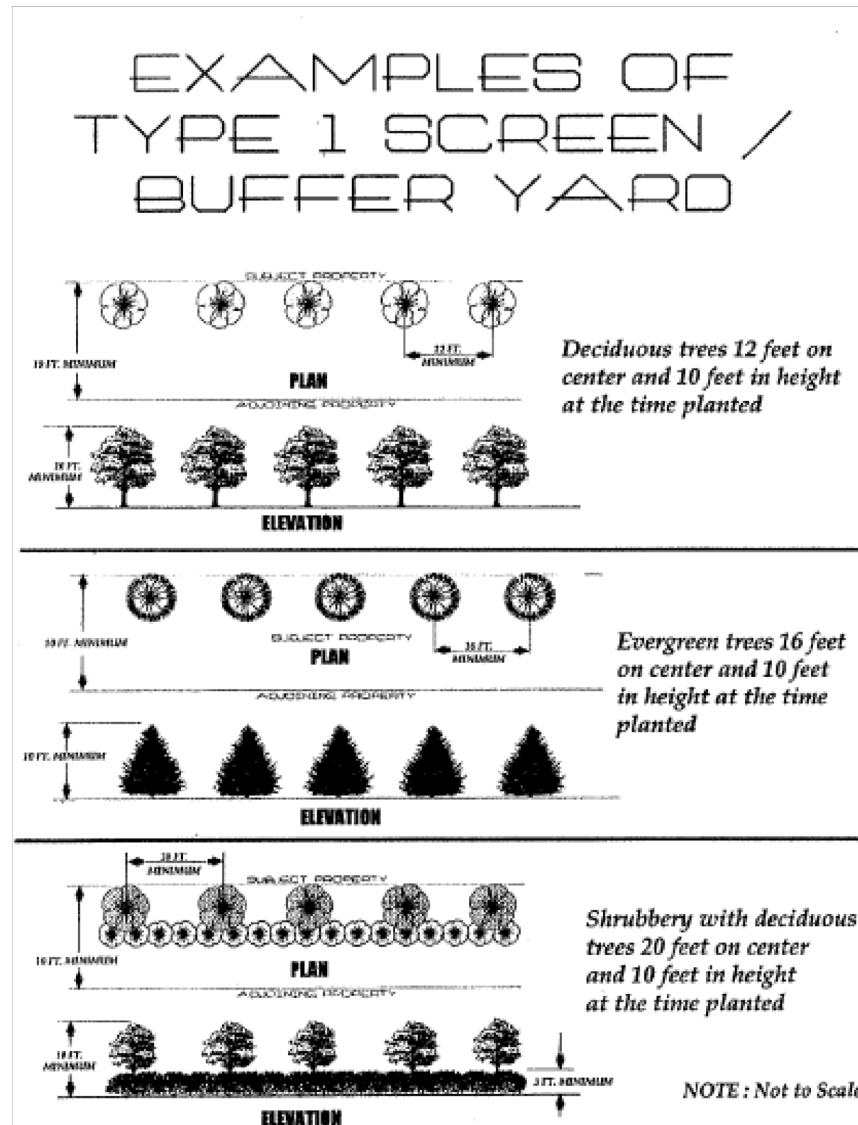


Illustration 5

EXAMPLES OF TYPE 2 SCREEN / BUFFER YARD

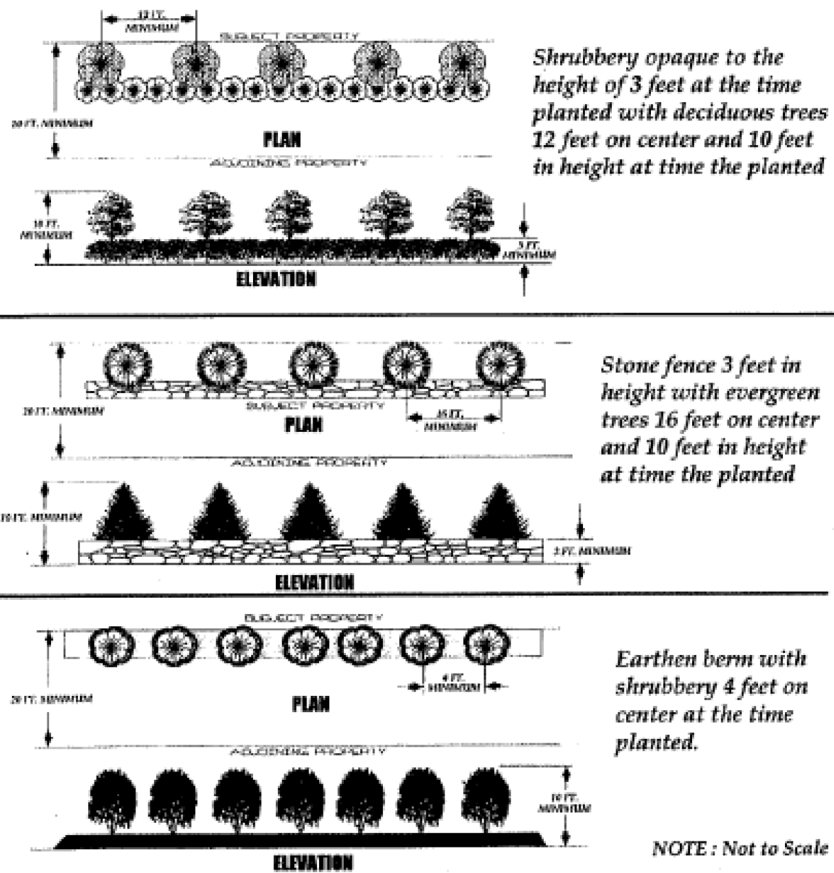
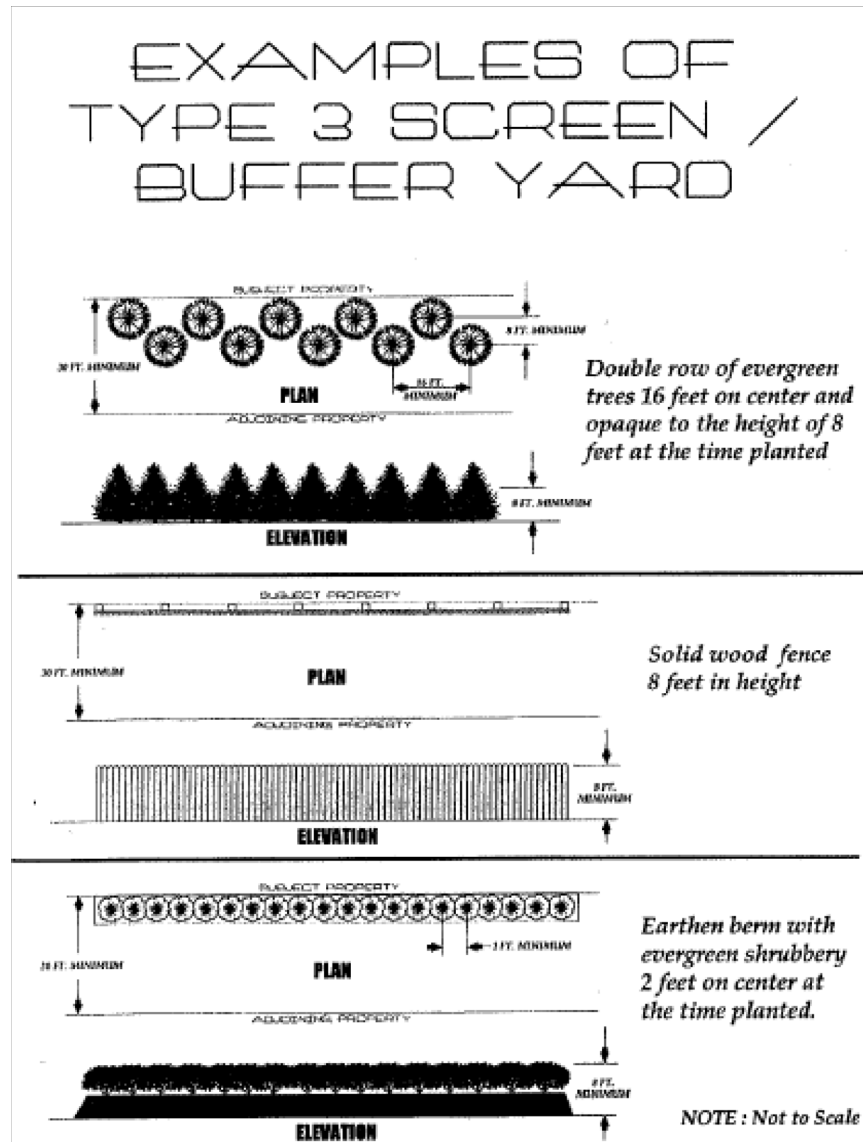


Illustration 6



CHAPTER 21

METHADONE AND SUBSTANCE ABUSE TREATMENT FACILITIES

SECTION

14-2101. Purpose and intent.

14-2102. Permitted.

14-2103. Applicability.

14-2104. Site plan required.

14-2101. Purpose and intent. The purpose and intent of this section is to provide minimum standards for clinics in the City of Sparta, Tennessee. (as added by Ord. #09-840, Oct. 2009)

14-2102. Permitted location. Uses permitted upon appeal, subject to review and approval by the board of zoning appeals.

M-I Industrial District: subject to site plan review by the planning commission. (as added by Ord. #09-840, Oct. 2009)

14-2103. Applicability. The standards of this section for methadone treatment clinic or facility and substance abuse treatment facilities shall apply as follows:

(1) The consideration for approval by the planning commission of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

(2) Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application "uses permitted upon appeal" for board of zoning appeals review along with the license of the applicant, certificate of need, property survey, site plan or other information deemed reasonable by the planning commission for use in making a thorough evaluation of the proposal.

(3) The clinic or facility shall be located on and have access to a principal arterial street.

(4) Measurement shall be made in a straight line on the Sparta Zoning Map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses.

(a) The clinic or facility shall not be located within one thousand feet (1,000') of a school, day care facility, park, church, synagogue, mortuary or hospital.

(b) The clinic or facility shall not be located within one thousand feet (1,000') of any establishment that sells alcoholic beverages for either on or off-premises consumption.

(c) The clinic or facility shall not be located within one thousand feet (1,000') of any area devoted to public recreation activity.

(d) The clinic or facility shall not be located within one thousand feet (1,000') of any amusement catering to family entertainment.

(e) The site shall not be less than one thousand feet (1,000') of any residential dwelling at the time of approval.

(f) The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility. (as added by Ord. #09-840, Oct. 2009)

14-2104. Site plan required. For the use permitted in the M-1 zoning district, a site plan shall be prepared indicating all property lines, proposed buildings, parking lots, sidewalks, dumpster/services areas, building drop-off areas, site entry/exit, above and below ground utilities, easements, outdoor recreational areas and landscape screening. The site plan shall be prepared by a licensed engineer and or architect. (as added by Ord. #09-840, Oct. 2009)

CHAPTER 22

ADULT ORIENTED ESTABLISHMENTS

SECTION

- 14-2201. Purpose; findings and rationale.
- 14-2202. Definitions.
- 14-2203. License required.
- 14-2204. Issuance of license.
- 14-2205. Fees.
- 14-2206. Inspection.
- 14-2207. Expiration and renewal of license.
- 14-2208. Suspension.
- 14-2209. Revocation.
- 14-2210. Hearing; license denial, suspension, revocation; appeal.
- 14-2211. Transfer of license.
- 14-2212. Hours of operation.
- 14-2213. Regulations pertaining to exhibition of sexually explicit films on premises.
- 14-2214. Loitering, exterior lighting and monitoring, and interior lighting requirements.
- 14-2215. Penalties and enforcement.
- 14-2216. Applicability of chapter to existing businesses.
- 14-2217. Prohibited conduct.
- 14-2218. Minor prohibited.
- 14-2219. Location regulations.
- 14-2220. Physical design of premises.
- 14-2221. Exterior of premises.
- 14-2222. Signs.
- 14-2223. Review of site plan by the planning commission.
- 14-2224. Scienter required to prove violation or business licensee liability.
- 14-2225. Failure of city to meet deadline not to risk applicant/licensee rights.
- 14-2226. Severability.
- 14-2227. Conflicting code provisions repealed.

14-2201. Purpose; findings and rationale. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented establishments in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult oriented establishments within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults

to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. La.Rue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Richland Bookmart, Inc. v. Knox County, 555 F.3d 512, 2009 WL 330995 (6th Cir. Feb. 12, 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); 729, *Inc. v. Kenton County Fiscal Court*, 515 F.3d 485 (6th Cir. 2008); *Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville & Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Deja Vu of Cincinnati, L.L.C., v. Union Township Bd. of Trustees*, 411 F.3d 777 (6th Cir. 2005) (*en banc*); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13 1999) (table); *Eamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *State ex rel. Gibbons v. Jackson*, 16 S.W.3d 797 (Tenn. Ct. App. 1999); *City of Cleveland v. Wade*, 206 S.W.3d 51 (Tenn. Ct. App. 2006); *State ex rel. Dossett v. Richland Bookmart, Inc.*, 1990 WL 209331 (Tenn. Ct. App. 1990); *Silver Video USA v. Summers*, 2006 WL 3114220 (Tenn. Ct. App. 2006); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshal*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Z.J. Gifts D-2, LLC v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *World Wide Video of Spokane, Inc. v. City of Spokane*, 227 F. Supp. 2d 1143 (E.D. Wash. 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Threesome*

Entertainment v. Strittmather, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *City of New York v. Hammes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

the board of mayor and aldermen finds:

(a) Adult oriented establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(b) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future

secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects. (as added by Ord. #11-864, Oct. 2011)

14-2202. Definitions. For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

(1) "Adult bookstore or adult video store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one (1) or more of the following criteria:

(a) At least thirty-five percent (35%) of the establishment's displayed merchandise consists of said items, or

(b) At least thirty-five percent (35%) of the wholesale value of the establishment's displayed merchandise consists of said items, or

(c) At least thirty-five (35%) of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or

(d) At least thirty-five (35%) of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or

(e) The establishment maintains at least thirty-five percent (35%) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(f) The establishment maintains at least five hundred (500) square feet of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(g) The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or

(h) The establishment regularly features said items and regularly advertises itself or holds itself out, by using "adult,"

"adults-only," "XXX," "sex," "erotic," "novelties," or substantially similar language, as an establishment that caters to adult sexual interests; or

(i) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

(2) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

(3) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five (5) persons for any form of consideration.

(4) "Characterized by" means describing the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

(5) "City" means Sparta, Tennessee.

(6) "Employ, employee, and employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(7) "Establish or establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

(8) "Floor space" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

(9) "Hearing officer" means an attorney, not otherwise employed by the city, who is licensed to practice law in Tennessee, and retained to serve as an independent tribunal to conduct hearings under this chapter.

(10) "Influential interest" means any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business,

(b) Ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or

(c) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

(11) "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

(12) "Nudity" means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

(13) "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

(14) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(15) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

(16) "Regularly" means the consistent and repeated doing of an act on an ongoing basis.

(17) "Semi-nude or semi-nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

(18) "Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

(19) "Sexual device" means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(20) "Sexual device shop" means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

(21) "Sexually oriented business" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a "sexual device shop."

(22) "Specified anatomical areas" means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(23) "Specified criminal activity" means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(a) Rape, aggravated rape, aggravated sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;

(b) Prostitution, patronizing prostitution, promoting prostitution;

(c) Assault;

(d) Obscenity;

(e) Dealing in controlled substances;

(f) Racketeering;

(g) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(h) Any offense in another jurisdiction that, had the predicate act(s) been committed in Tennessee, would have constituted any of the foregoing offenses.

(24) "Specified sexual activity" means any of the following:

(a) Intercourse, oral copulation, masturbation or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in (a) above.

(25) "Transfer of ownership or control" of a sexually oriented business means any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(26) "Viewing room" means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction. (as added by Ord. #11-864, Oct. 2011)

14-2203. License required. (1) Business license. It shall be unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.

(2) Employee license. It shall be unlawful for any person to be an "employee," as defined in this chapter, of a sexually oriented business in the city without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(3) Application. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the city clerk a completed application made on a form provided by the city clerk. A sexually oriented business may designate an individual with an

influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (4) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (3), accompanied by the appropriate licensing fee:

(a) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(b) Current business address or another mailing address for the applicant.

(c) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(d) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(e) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(f) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(g) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) Been declared by a court of law to be a nuisance; or

(ii) Been subject to a court order of closure or padlocking.

(h) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this chapter shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The city

clerk may waive the requirements of this subsection (h) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. The information provided pursuant to this subsection (3) shall be supplemented in writing by certified mail, return receipt requested, to the city clerk within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(4) Signature. A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

(5) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the city clerk on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure. (as added by Ord. #11-864, Oct. 2011)

14-2204. Issuance of license. (1) Business license. Upon the filing of a completed application for a sexually oriented business license, the city clerk shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the city and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the city clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The city clerk shall issue a license unless:

- (a) An applicant is less than eighteen (18) years of age.
- (b) An applicant has failed to provide information required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.
- (c) The license application fee required by this chapter has not been paid.
- (d) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter

or is not in compliance with the location requirements of the Sparta Municipal Code, Sparta Zoning Code, or Tennessee state law.

(e) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to an order of closure or padlocking.

(f) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.

(2) Employee license. Upon the filing of a completed application for a sexually oriented business employee license, the city clerk shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the city clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The city clerk shall issue a license unless:

- (a) The applicant is less than eighteen (18) years of age.
- (b) The applicant has failed to provide information as required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

(c) The license application fee required by this chapter has not been paid.

(d) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to an order of closure or padlocking.

(e) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.

(3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing. (as added by Ord. #11-864, Oct. 2011)

14-2205. Fees. The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100.00) for the initial fee for a sexually oriented business license and fifty dollars (\$50.00) for annual renewal; fifty dollars (\$50.00) for the initial sexually oriented business employee license and twenty-five dollars (\$25.00) for annual renewal. (as added by Ord. #11-864, Oct. 2011)

14-2206. Inspection. Sexually oriented businesses and sexually oriented business employees shall permit the city clerk and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections. (as added by Ord. #11-864, Oct. 2011)

14-2207. Expiration and renewal of license. (1) Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this chapter.

(2) Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected. (as added by Ord. #11-864, Oct. 2011)

14-2208. Suspension. (1) The city clerk shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly or recklessly violated this chapter or has knowingly or recklessly allowed an employee or any other person to violate this chapter.

(2) The city clerk shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly or recklessly violated this chapter. (as added by Ord. #11-864, Oct. 2011)

14-2209. Revocation. (1) The city clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this chapter or has knowingly or recklessly allowed an employee or any other person to violate this chapter and a suspension of the licensee's license has become effective within the previous twelve (12) month period.

(2) The city clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(a) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;

(b) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(c) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(d) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;

(e) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business; or

(f) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the sexually oriented business.

(3) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(4) When, after the notice and hearing procedure described in this chapter, the city revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective. (as added by Ord. #11-864, Oct. 2011)

14-2210. Hearing; license denial, suspension, revocation; appeal.

(1) When the city clerk issues a written notice of intent to deny, suspend, or revoke a license, the city clerk shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city clerk for the respondent. The notice shall also set forth the following: The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the city clerk, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the city clerk's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth (30th) day after it is issued, and shall be subject to the provisions of subsection (2) of this section.

If the respondent does make a written request for a hearing within said ten (10) days, then the city clerk shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The city shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the city clerk's witnesses. The city clerk shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the city clerk to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the city clerk shall contemporaneously therewith issue the license to the applicant.

(2) If any court action challenging a licensing decision is initiated, the city shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the city clerk: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the city clerk shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement. (as added by Ord. #11-864, Oct. 2011)

14-2211. Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application. (as added by Ord. #11-864, Oct. 2011)

14-2212. Hours of operation. No sexually oriented business shall be open to do business before eight o'clock a.m. (8:00 A.M.) Monday through Saturday, and no such establishment shall remain open after twelve o'clock midnight (12:00 A.M.), Monday through Saturday. No sexually oriented business shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated § 15-1-101. (as added by Ord. #11-864, Oct. 2011)

14-2213. Regulations pertaining to exhibition of sexually explicit films on premises. (1) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The city clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(c) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5)

foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(d) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

(e) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms less than one hundred fifty (150) square feet is limited to one (1) person.

(ii) That specified sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of these regulations are unlawful.

(f) It shall be the duty of the operator to enforce the regulations articulated in (e)(i) through (iv) above.

(g) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(h) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

(2) It shall be unlawful for a person having a duty under subsections (1)(a) through (1)(h) to knowingly or recklessly fail to fulfill that duty.

(3) No patron shall knowingly or recklessly enter or remain in a viewing room less than one hundred fifty (150) square feet in area that is occupied by any other patron.

(4) No patron shall knowingly or recklessly be or remain within one foot (1') of any other patron while in a viewing room that is one hundred fifty (150) square feet or larger in area.

(5) No person shall knowingly or recklessly make any hole or opening between viewing rooms. (as added by Ord. #11-864, Oct. 2011)

14-2214. Loitering, exterior lighting and monitoring, and interior lighting requirements. (1) It shall be the duty of the operator of a sexually oriented business to:

(a) Ensure that at least two (2) conspicuous signs stating that no loitering is permitted on the premises are posted on the premises;

(b) Designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and

(c) Provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(2) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(3) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(4) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty. (as added by Ord. #11-864, Oct. 2011)

14-2215. Penalties and enforcement. (1) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a violation, and, upon conviction, shall be punishable by a fine not to exceed fifty dollars (\$50.00). Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

(2) The city's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the city, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this chapter, or any of the laws in force in the city or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred. (as added by Ord. #11-864, Oct. 2011)

14-2216. Applicability of chapter to existing businesses. All preexisting sexually oriented businesses lawfully operating in the city in compliance with all state and local laws prior to the effective date of this chapter, and all sexually oriented business employees working in the city prior to the effective date of this chapter, are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this chapter. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter. (as added by Ord. #11-864, Oct. 2011)

14-2217. Prohibited conduct. (1) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(2) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet (6') from all patrons and on a stage at least eighteen inches (18") from the floor in a room of at least six hundred (600) square feet.

(3) No employee who appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(4) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(5) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.

(6) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(7) A sign in a form to be prescribed by the city clerk, and summarizing the provisions of subsections (1), (2), (3), (4), and (5), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly

visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign. (as added by Ord. #11-864, Oct. 2011)

14-2218. Minor prohibited. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or to be on the premises of such business. It shall be the duty of the permittee, or the permittee's employees, to insure that no person under the age of eighteen (18) enters said business. (as added by Ord. #11-864, Oct. 2011)

14-2219. Location regulations. It shall be unlawful to establish, operate, or cause to be operated sexually oriented business in the city unless said sexually oriented business is at least:

(1) One-thousand feet (1,000') from any parcel occupied by another sexually oriented business; and

(2) One-thousand feet (1,000') from any parcel occupied by a child care facility, a private, public, or charter school, a public park, a residence, or a place of worship.

(3) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures, objects, or political boundaries, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in subsection (1) above. (as added by Ord. #11-864, Oct. 2011)

14-2220. Physical design of premises. No persons shall own, operate, manage, rent, lease, or exercise control over any commercial building, structure, premises, or portion of part thereof, which is an adult establishment and which contains:

(1) Partitions between subdivisions of a room, portion or part of a building, structure, or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition.

(2) Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains, or partial partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms and is lighted in such a manner that the persons in the area used for viewing motion pictures are visible from the adjacent public rooms.

The city shall have the right to require the filing of plans, drawings, and photographs showing the clearance of the view as above required and may require filing of plans, drawings, and photographs with the building inspector's

office before the issuance of any permit as provided herein below. (as added by Ord. #11-864, Oct. 2011)

14-2221. Exterior of premises. It shall be unlawful for a permittee to allow the exterior portion of the business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representation of any type other than the name of the business and the hours of operation. (as added by Ord. #11-864, Oct. 2011)

14-2222. Signs. Notwithstanding any other city ordinance, code, or regulation to the contrary, the permittee of such business will be allowed to erect, construct, no more than two (2) primary signs with the total area of the signs not exceeding ten (10) square feet. Such signs may be mounted on the front or side of the establishment, or in the front or side yard, provided that no sign be placed no closer than ten feet (10') to any property line. Such sign shall not contain any flashing or moving lights, shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner and may only contain the name of the business. (as added by Ord. #11-864, Oct. 2011)

14-2223. Review of site plan by the planning commission. Adult oriented businesses shall be permitted in the C-D, Commercial D Zoning District (Chapter 8) as Uses Permitted. A site plan meeting all of the requirements as indicated in § 14-1304 of the Zoning Ordinance shall also be submitted for review and approval to the planning commission which will include the verification of location restrictions with appropriate conditions and safeguards which will include the following:

(1) One (1) parking space per employee plus either one (1) space per fifty (50) square feet of floor space or one (1) parking space per seat, whichever is greater. Site plan shall indicate all adjoining properties and all adjoining occupancies.

(2) A floor plan must also be submitted and approved by the building inspector indicating the maximum seating and depicting the location of all doors and restrooms.

(3) Annual inspection by police or the building inspector shall be done to ensure maximum seating in not being exceeded. (as added by Ord. #11-864, Oct. 2011)

14-2224. Scienter required to prove violation or business licensee liability. This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee

for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (as added by Ord. #11-864, Oct. 2011)

14-2225. Failure of city to meet deadline not to risk applicant/licensee rights. In the event that a city official is required to act or to do a thing pursuant to this chapter within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the city of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the city's action has passed. (as added by Ord. #11-864, Oct. 2011)

14-2226. Severability. This chapter and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter. (as added by Ord. #11-864, Oct. 2011)

14-2227. Conflicting code provisions repealed. Any provision(s) in the Sparta Zoning Ordinance specifically in conflict with any provision in this chapter is hereby deemed inoperative and repealed. (as added by Ord. #11-864, Oct. 2011)

CHAPTER 23**RESIDENTIAL ZERO-LOT LINE DISTRICT (RZD)****SECTION**

- 14-2301. General description.
- 14-2302. Permitted uses.
- 14-2303. Uses permitted on review.
- 14-2304. Uses prohibited.

14-2301. General description. A residential zero-lot line development is a development of single family attached houses or townhouse complex, condominiums, or other special housing development, where two (2) or more housing units are grouped together in two (2) or more buildings, are either sold or rented, with or without accessory structures providing recreational, cultural, or other activities for residents therein. Residential zero-lot line development can also include single-family site-built homes designed as "zero lot line" or "patio home" concept.

The RZD is intended to encourage flexibility and innovation in land use in residential developments. Through careful planning, such districts will provide for the best use of the site consistent with the goals of protecting and embracing the natural environment. At the same time, it is intended that projects within any RZD provide a compatible blending with surrounding development, minimizing such negative impacts as land use conflicts, traffic congestion, and excessive demands on existing or proposed public facilities. (as added by Ord. #19-925, July 2019 *Ch14_04-21-22*)

14-2302. Permitted uses. (1) Single-family and two-family attached dwellings.

(2) Accessory apartments for single-family detached dwellings.

(3) Two-family dwellings; multi-family dwellings; condominiums; efficiency apartments.

(4) Accessory buildings or uses customarily incidental to aforementioned permitted uses. Such uses may include noncommercial gardens and greenhouses, tool sheds, unattached garages and carports, swimming pools, children's play areas, gazebos, and the like.

(5) Public, private and parochial schools and childcare centers.

(6) Recreational and community assembly facilities intended for the primary use and convenience of the residents with the RZD and their guests.

(7) Public parks and recreational facilities, churches and similar places of worship. (as added by Ord. #19-925, July 2019 *Ch14_04-21-22*)

14-2303. Uses permitted on review. Upon review and approval by the Sparta Planning Commission, neighborhood commercial activities may be permitted subject to the following conditions:

(1) No commercial activities will be permitted within any RZD containing fewer than two hundred (200) dwelling units.

(2) All commercial facilities must be designed as an integral part of the development; external advertising or other characteristics, which would alter the residential scenic quality, noise level, or traffic load shall not be permitted.

(3) The commercial activities permitted within a RZD shall not in the aggregate exceed more than four percent (4%) of the total floor area within such development, provided further that the maximum floor area devoted to any single activity shall not exceed three thousand (3,000) square feet.

(4) All commercial facilities authorized must be intended for the primary use and convenience of the residents within the RZD District and their guests. (as added by Ord. #19-925, July 2019 *Ch14_04-21-22*)

14-2304. Uses prohibited. (1) Mobile home parks as well as mobile homes on individual lots.

(2) Storage or long-term parking of commercial or industrial vehicles.

(3) Outdoor storage of any type, except that in connection with and on the premise of active building and/or land development.

(4) Any other use or structure not specifically permitted or permitted on appeal.

(5) Minimum area requirements. No property considered for a RZD shall be less than two (2) acres in size. At the time of application for a RZD, the entire tract of land for which rezoning is requested shall be under the control of a single individual, partnership, or corporation.

(6) Maximum density. The maximum number of dwelling units in any RZD shall be computed by multiplying the gross acreage to be developed by twenty-one (21), excluding any area to be developed as a church, school, child care center, or commercial use (as approved by the planning commission.)

(7) Minimum yard requirements.

(8) Perimeter yard requirements. (a) The required minimum front yard shall be thirty-five feet (35') unless a screen/buffer yard as specified in chapter 20 is provided, in which case the minimum front yard shall be twenty-five feet (25').

(b) The required minimum rear and side yards shall be twenty-five feet (25') unless a screen/buffer yard as specified in chapter 20 of this zoning code is provided, in which case the minimum rear and side yards shall be fifteen feet (15').

(9) Interior yard requirements. (a) The required minimum front yard off any interior street within a RZD shall be ten feet (10'). Provided, however, should a final RZD plan or final subdivision plat depict a

setback greater than the minimum, then the setback depicted on the final plan or plat shall apply.

(b) The required minimum rear and side yards, unless such yard is adjacent to the perimeter of the area zoned as RZD, shall be zero (0) except if the final RZD plan or final subdivision plat depict a setback greater than the minimum, then the setback depicted on the final plan or plat shall apply.

(c) The spacing of all structures shall comply with subsection (10).

(d) Fire hydrants shall be spaced to be at a point no further than five hundred feet (500') from the most remote point of any residential structure that is to be protected by the hydrant. In the case of non-residential, non-accessory structures, this maximum distance shall not exceed four-hundred feet (400').

(10) Parking requirements. Uses in the RZD shall conform to the provisions of § 14-207 of this official zoning code and shall provide at least two (2) off street spaces per dwelling unit.

(11) Access requirements. (a) Access to each single-family dwelling unit or to buildings containing multi-family dwelling units under individual ownership shall be provided via a public right-of-way or a private driveway owned by the individual in fee simple or in common ownership with the other residents of the RZD.

(b) Access to buildings containing multi-family dwelling units not owned by their occupants shall be provided via a public right-of-way.

(c) Access and circulation shall adequately provide for firefighting and emergency vehicles, furniture moving vans, garbage collection, and deliveries.

(12) Design standards. The following design standards shall apply for all PRD developments:

(a) Access. (i) Access to each single-family dwelling unit shall be provided via a public right-of-way or a private driveway owned by the individual in fee simple or in common ownership with the other residents of the PRD. Access and circulation shall adequately provide for firefighting and emergency vehicles, furniture moving vans, garbage collection and deliveries.

(ii) Access to buildings containing multi-family dwelling units under individual ownership shall be provided via a public right-of-way or a private driveway owned by the individual in fee simple or in common ownership with the other residents of the PRD. Access and circulation shall adequately provide for firefighting and emergency vehicles, furniture moving vans, garbage collection and deliveries.

(iii) Access to buildings containing multi-family dwelling units not owned by their occupants shall be provided via a public

right-of-way. Access and circulation shall adequately provide for firefighting and emergency vehicles, furniture moving vans, garbage collection and deliveries.

(b) Obstruction of vision at intersections. (i) Intersections of streets. On a corner lot within the area formed by the edge of pavement lines of the intersecting or intercepting streets adjoining said corner lot and a line joining points on such edge of pavement lines at a distance of fifty feet (50') from the point of intersection, there shall be no obstruction to vision between a height of two feet (2') and a height of ten feet (10') above the average grade of each street at the center line thereof.

(ii) Intersections of driveways with streets. No obstruction to vision shall hereafter be planted, allowed to grow, parked, placed, or erected in such a manner as to materially impede visibility to any driver leaving a driveway in order to enter a public street.

(iii) Area and bulk regulations. There shall be no minimum lot size, no minimum setback lines (except as specified in subsection (7) of this zoning code), and no maximum percentages of lot coverage in any PRD district.

(iv) Spacing of structures. (A) The location of all structures shall be as shown on the final PRD plan.

(B) The proposed location of all structures shall not be detrimental to existing or prospective adjacent uses or to the existing or prospective development of the neighborhood.

(C) There shall be a minimum distance between detached structures as follows:

(1) One (1) and two (2) stories -- fifteen (15) feet

(2) Three (3) stories -- twenty (20) feet

(3) Greater than three (3) stories -- as determined by planning commission.

(D) No individual residential structure shall extend more than two hundred feet (200') in length.

(E) For structures exceeding three (3) stories or thirty-five feet (35') in height, the planning commission shall be consulted concerning the location and proper spacing for such units.

(v) Height of buildings. (A) The maximum building height for any building located within two hundred feet (200') of an adjacent residential district shall be thirty-five feet (35') or three (3) stories.

(B) Elsewhere within the PRD District there are no height restrictions. However, the plans for any structure which exceeds thirty-five feet (35') or three (3) stories in height shall be reviewed by the planning commission in order to determine:

(1) That proper fire protection can be provided by the city.

(2) That the location and spacing of such structures is adequate to provide proper light and air.

(3) That the privacy of the occupants of adjacent low-rise dwellings is not invaded by the location of high-rise structures.

(13) Common open space. The following provisions shall govern all open space within the development and are required for all developments with twenty-five (25) or more dwelling units.

(a) Quantity of common open space. A minimum of twenty-five percent (25%) of the acreage within any RZD district shall be set aside for use as common open space.

(b) Reduction in common open space requirement. The planning commission may permit a one (1) to one (1) reduction in the percentage of acreage set aside for use as common open space in a RZD district when all or a portion of the development is to be subdivided into lots for individual ownership. The reduction in the percentage shall not exceed the total land area preserved as yard areas within the individual lots.

(c) Quality and improvement of common open space. (i) No open space may be accepted as common open space under the provisions of this zoning code unless the location, shape, size, and character of the open area is suitable for use of residents in the RZD.

(ii) Common open space must be for amenity or recreational purposes. The uses authorized for the common open space must be appropriated to the scale and character of the RZD considering its size, density, topography, and the number and type of dwelling units to be provided.

(iii) The development schedule, which is part of the Preliminary RZD Plan, must coordinate improvement of common open space with construction of residential dwellings so that such space becomes available as dwelling units are occupied.

(iv) The developer shall submit a financial guarantee in form of an irrevocable letter of credit, cash, or certified check as assurance that the buildings, structures, and improvements identified as common open space will be completed.

(d) Maintenance of common open space. All common open space shall be preserved for its intended purpose as expressed in the Final RZD Plan. The developer shall choose one or a combination of the following methods of administering common open space.

(i) Public dedication to the city of the common open space. This method is subject to formal acceptance by the city.

(ii) Establishment of an association or non-profit corporation of all individuals or corporations owning property within the RZD to insure maintenance of all common open space.

(e) Pedestrian circulation. A pedestrian circulation system is required. The system and its related walkways shall be separated as completely as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This separation shall include, when deemed necessary by the planning commission, pedestrian underpasses and overpasses in the vicinity of schools, playgrounds, residential uses, and other neighborhood uses that generate a considerable amount of pedestrian traffic. Sidewalks shall be constructed of concrete.

(14) Sign requirements. No billboards or similar off-premises advertising structures are allowed in the RZD, all other signs or similar advertising structures shall conform to the provisions of the official zoning code.

(15) Plot plan or site plan requirements. All developments in the RZD requiring building permits shall conform to the following plot plan (site plan) requirements.

The site plans shall be prepared to scale by an architect, engineer, surveyor or landscape architect and be approved by the City of Sparta and planning staff prior to the issuance of a building permit. The site plans shall show sufficient detail as to enable the City of Sparta and the planning staff to ascertain whether the proposed development is in conformance with the provisions of this zoning ordinance.

(a) Single-family residential buildings. (i) The actual shape, location, and dimensions of the lot;

(ii) The shape, size, floor plan and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structure already on the lot;

(iii) The existing and intended use of the lot and of all such buildings or other structures upon it;

(iv) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

(v) For new factory manufactured multi-section (double-wide) or modular housing buildings, submit copy of unit title and detailed construction information of that unit from the dealer and/or manufacturer.

(b) Residential, commercial and industrial developments including signs and billboards.

Note: The scale of the site plan shall not be less than one inch equals one hundred feet (1" = 100'). A scale of one inch equals fifty feet (1" = 50') or greater may be required by the City of Sparta and the planning staff if all the required information cannot be clearly depicted at the one inch equals one hundred feet (1" = 100') scale.

- (i) Title block.
- (ii) Name of project or development/address and location.
- (iii) Names, addresses and telephone numbers of developer, owner, engineer, architect, surveyor and landscape architect.
- (iv) Vicinity map.
- (v) North arrow and scale.
- (vi) Date.
- (vii) Name of all surrounding property owners.
- (viii) Actual shape, size, location and dimensions of the property or lot to be built upon.
- (ix) Existing topography.
- (x) Existing vegetation, water-ways, flood plains, rock outcrops and other natural features.
- (xi) All existing utility easements and right-of-ways.
- (xii) Minimum required front, side and rear setbacks.
- (xiii) Existing structures to be utilized on the site.
- (xiv) Shape, size and location of all proposed buildings (Proposed ground coverage, floor area and building heights) structures to be constructed or to be added on to.
- (xv) Names, location, arrangement and dimensions of proposed streets and other public access drives.
- (xvi) Location and design of off-street drives, parking, points of access, off-street loading areas, and pedestrian circulation.
- (xvii) Location and size of all existing utilities i.e. electric, water line, sewer line, gas line, fire hydrants, and any other public utilities.
- (xviii) Plans for the location and size of proposed utilities i.e. electric, water lines, sewer lines, gas lines, fire hydrants and other public utilities.
- (xix) Location of all proposed easements and right-of-ways as required.
- (xx) Proposed contours for a grading plan shall be shown at either one (1) or two (2) foot intervals.

(xxi) Plans for storm water drainage to include identifying low areas or sink-hole for retention - if applicable. (Location of areas subject to flooding.)

(xxii) Location and all proposed signs.

(xxiii) Location of open space areas.

(xxiv) Location of all landscape/buffer areas (fences, walls, plant material) - if applicable.

(xxv) Percolation tests where subsoil sewage disposal is anticipated.

(xxvi) Other requirements as required by the planning staff.

(16) Process for development and approval. Summary: After a pre-application conference is held, the developer may proceed with drafting a preliminary RZD plan. The purpose of the preliminary RZD plan is to require enough information to illustrate the intent of the developer without necessitating considerable expense on his part. A recommendation for rezoning from the planning commission shall be made, based on the information presented in the preliminary RZD plan, to the city council. After the council has approved rezoning to RZD, then the developer will proceed with the development of a detailed final RZD plan. The final RZD PLAN is submitted to the planning commission for final approval.

After final approval is obtained, the developer will register the final RZD plan and proceed with construction. A final subdivision plat, if applicable, will be approved and registered before transfer of units.

(17) Pre-application conference. The developer is required to confer with the planning staff prior to submission of the preliminary RZD plan to the planning commission. The purpose of the conference is to exchange information and guidance concerning the process for approval and the provisions of the RZD zoning district. Discussions will concern, but not be limited to, the site, the proposed development, the effect on community facilities, and the proposed schedule for planning and construction of the RZD.

(18) Submission of the preliminary RZD plan. (a) The preliminary RZD plan shall include a schematic map plan and written statement.

(i) The schematic map plan shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall include the following information:

(A) Location and name of proposed development.

(B) Location sketch map depicting relationship of RZD to area.

(C) Approximate North point, graphic scale, and date.

(D) Acreage of site.

(E) Existing zoning of site and area within three hundred feet (300') of site.

(F) Existing and proposed land uses, and approximate location, size and density of buildings and other structures, both existing and proposed.

(G) The location of existing and proposed property lines, streets, watercourses, railroads, sewer lines, water lines, drainage pipes, bridges, culverts, and easements for existing utilities and other features.

(H) Proposed vehicular and pedestrian circulation system.

(I) Existing topographic and hydrographic features of the site, drawn with contours at vertical intervals of not more than five feet (5').

(J) Public uses, including schools, parks, playgrounds and other open spaces, and common open spaces, structures and uses for the occupants of the RZD.

(ii) The written statement shall include:

(A) Information about the physical characteristics of the surrounding area and developments within three hundred feet (300') of the site.

(B) Types structures and improvements as a means of explaining the general RZD character of the proposed RZD.

(C) Expected development schedule, including approximate date when construction will begin; the approximate stages of the project and approximate starting dates for each stage; the rate of development; and the area and location of open space that will be provided with each stage.

(D) Proposed covenants, grants of easement or other restrictions to be imposed upon the use of the land, including common open space areas, buildings, and other structures within the RZD.

(E) Any other supportive information that cannot be shown graphically.

(b) Two (2) copies of the preliminary RZD plan must be submitted to the planning commission. The preliminary RZD plan will not be accepted for consideration until all information described above has been submitted. The preliminary RZD plan will be taken for a minimum one (1) month study period for planning staff review for compliance with the provisions and requirements of this zoning code. The planning commission will take action on the preliminary RZD plan within sixty (60) days of formal acceptance of the application and plan for study.

(c) The planning commission shall submit the application and the preliminary RZD plan to the city council, with its recommendations

as to approval, disapproval, desirable changes and/or special conditions and safeguard.

(d) Upon receipt of the preliminary RZD plan and the planning commission's recommendations, the city council will set a date for the public hearing. After holding the public hearing and reviewing the preliminary RZD plan, the application for rezoning and the planning commission's recommendations, the city council will consider enactment of the rezoning ordinance for the site of the proposed RZD.

(e) No building permits may be issued and no final plat may be approved on land within the RZD site until the planning commission has approved the final RZD plan.

(f) Expiration of preliminary RZD plan. Approval of the preliminary RZD plan will expire six (6) months after the effective date of the rezoning action of the city council, if no final RZD plan has been submitted to and approved by the planning commission. Extensions, totaling no more than eighteen (18) months after the effective date of rezoning action by the city council, may be granted by the planning commission upon written request by the developer, stating the reasons for needing the extension.

(19) Submission of final RZD plan and preliminary subdivision plat. (a) In cases involving the proposed transfer of land within the RZD, a preliminary subdivision plat will be required with the submission of the final RZD plan, which will be reviewed by the planning commission for compliance with the preliminary RZD plan and with the requirements of this zoning code. The preliminary subdivision plat must conform to the requirements of the subdivision regulations.

(b) The final RZD plan shall substantially conform to the preliminary RZD plan, and will be submitted for the entire RZD. The number of dwelling units shown on the preliminary RZD plan shall not be exceeded. The developer may choose to construct the RZD in stages or sections, each of which must be clearly identified on the final RZD plan.

(c) The planning commission's approval of the final RZD plan and preliminary subdivision plat is required before construction can begin. After receiving approval of the final RZD plan from the planning commission, the developer is required to register the final RZD plan in the Office of the White County Register.

(d) The final RZD plan must include the following information:

(i) Engineering drawings and maps drawn at a scale of not more than one inch equals fifty feet (1" = 50').

(ii) Finished topography of the site, with contours of not more than five foot (5') vertical intervals.

(iii) Circulation diagram(s) indicating movement of vehicles, goods and pedestrians within the RZD area, and to and

from existing thoroughfares. The following should also be included with the circulation plan:

- (A) Street and sidewalk layout.
- (B) Street widths of pavement and right-of-way.
- (C) Street cross-sections.
- (D) Any proposed special engineering features and/or traffic regulation devices.
- (iv) Off-street parking and loading plan, with ground coverage of parking areas indicated.
- (v) Areas to be conveyed, dedicated, or reserved for parks, parkways, and other public or semi-public open space uses and including any improvements that are to be deeded as part of the common use area.
- (vi) Each building site and common open area, including the location, height, and bulk of all buildings and structures, landscaping and other improvements. In addition, the type, use, and number of units for each structure, and elevation and perspective drawings of structures are required.
- (vii) Proposed utilities including sewers, both sanitary and storm, gas lines, water lines, and electric lines showing connections to existing systems, and easements for such. Additionally, the locations of fire hydrants must be shown.
- (viii) Location, function, and ownership of all open spaces, except those open spaces included in fee-simple lots.
- (ix) Final drafts of all proposed covenants and grants of easement, particularly those pertaining to common open space.
- (x) Computations of coverage by all buildings, structures, recreational facilities, and parking lots within the RZD.
- (xi) Development schedule indicating:
 - (A) The approximate date when construction of the project can be expected to begin.
 - (B) Outline of each phase or stage of the construction of the development, with a tabulation of proposed densities to be allocated to each stage.
 - (C) The approximate date when construction of each stage or phase can be expected to begin.
 - (D) The anticipated rate of development.
 - (E) The approximate dates when each stage in the development will be completed.
 - (F) The area, location, and degree of development of common open space that will be provided at each stage.
 - (G) Minor amendments to the final RZD plan may be submitted to the planning commission for review and approval. If the planning staff determines that the

amendment is substantially different from the preliminary RZD plan and/or involves a change in the intent of the character of the RZD, then the amendment will require a public hearing to be held.

(H) RZD rezoning repealed when final RZD plan is not submitted. When a final RZD plan is not submitted to and approved by the planning commission within eighteen (18) months after the effective date of the rezoning action of the city council, said rezoning action shall be repealed.

(20) Construction. (a) Building permits shall not be issued before the final RZD plan has been approved and recorded.

(b) If a subdivision plat is required, transfer of real property within the RZD is not permitted until a final subdivision plat has been approved and recorded.

(c) If construction of required improvements is to be carried out in phases or stages, then the planning commission may accept a financial guarantee in lieu of improvements, as specified in the subdivision regulations. The financial guarantee may be reduced to a maintenance bond upon the completion of each stage or phase.

(d) The maintenance bond must be of sufficient amount and duration (not to exceed five (5) years) to cover the maintenance of the improvements of each phase or section until the entire RZD is completed and/or responsibility of maintenance has been transferred.

(21) Final subdivision plat. (a) A final subdivision plat, conforming to the subdivision regulations, must be submitted to the planning commission for review and approval by one (1) of the following methods:

(i) After completion of construction of all streets, utilities, and any other areas, buildings or structures to be dedicated to a public agency.

(ii) After submitting a financial guarantee, in an amount to be determined by the planning commission, to cover the cost of construction of any and all improvements to be dedicated to a public agency, such as streets and utilities.

(b) The final subdivision plat must be recorded in the Office of the White County Register, before transfer of ownership of units in the RZD. (as added by Ord. #19-925, July 2019 **Ch14_04-21-22**, and amended by Ord. #19-928, Sept. 2019 **Ch14_04-21-22**)

CHAPTER 24**TEMPORARY STORAGE CONTAINERS****SECTION**

- 14-2401. Definitions.
- 14-2402. Residential zones.
- 14-2403. Commercial zones.
- 14-2404. Industrial zones.
- 14-2405. Vertical stacking prohibited.
- 14-2406. Maintenance/condition.
- 14-2407. Use as a dwelling prohibited.
- 14-2408. Violations/penalties.

14-2401. Definitions. The term "temporary portable storage container" shall be defined as: a container fabricated for the purpose of transporting freight or goods on a truck, railroad, or a ship, including cargo containers, shipping containers, storage units, or other portable structures that are placed on private property and used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials, or merchandise. This definition is not to include accessory buildings, or a building approved for construction by the Sparta Planning Commission. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2402. Residential zones. (1) Only one (1) temporary portable storage container shall be permitted per parcel in all residential zoning districts where a residential unit is located or a building permit has been issued for construction of a residential unit. No portable storage unit will be permitted on a vacant parcel.

(2) Temporary portable storage containers shall be allowed on an approved driveway or in a side or rear yard for a period not to exceed ninety (90) days in any twelve (12) month period. No temporary portable storage container shall be placed or located in a circulation aisle/lane, fire access lane, public utility easement or public right-of-way, including streets, sidewalks, and parking strips.

(3) If a building permit has been issued for the construction or remodeling of a residence, then the container must be removed within ten (10) days of the final building inspection. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2403. Commercial zones. (1) The use of temporary portable storage containers in a commercial zone is prohibited, except for the following uses:

(a) Shipping and receiving merchandise and goods, provided that the temporary portable storage container does not remain stationary for more than thirty (30) days;

(b) Storage for construction or remodeling purposes, so long as the period of that use does not exceed one hundred eighty (180) days. The codes enforcement office may extend the one hundred eighty (180) day requirement when a project is ongoing and a building permit remains valid. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2404. Industrial zones. The use of temporary portable storage containers is permissible in all industrial zones, provided that they are not stored on public rights-of-way, in fire access lanes, in landscaped or front setback areas, or in an area visible from the property's primary street. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2405. Vertical stacking prohibited. Vertical stacking of portable storage containers and stacking of any other materials on top of or around any portable storage container shall be prohibited in all zones. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2406. Maintenance/condition. In all zones, temporary portable storage containers must be kept in good repair, be secured against unauthorized entry, comply with health regulations, and be stored on a hard surface.

A temporary portable storage container is not in a state of good repair when it is incapable of being moved intact, holes exist in the container due to damage or rust, or it has been infested with vermin or other pests. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2407. Use as a dwelling prohibited. Temporary portable storage containers may not be used as a dwelling or living quarters, nor for camping, cooking, or recreation purposes for any amount of time in any zone. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)

14-2408. Violations/penalties. A violation of this section is a class B misdemeanor, and may be enforced through criminal, administrative, or civil actions. (as added by Ord. #22-944, Feb. 2022 *Ch14_04-21-22*)