

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING CODE.
3. FLOODPLAIN ZONING.
4. ZONING BOARD OF APPEALS.
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**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Regional planning commission designated as municipal planning commission.
- 14-102. Planning commission.

**14-101. Regional planning commission designated as municipal planning commission.** Pursuant to authority provided in *Tennessee Code Annotated*, § 13-3-301, the Chattanooga-Hamilton County Regional Planning Commission is hereby designated as the Municipal Planning Commission of the City of Soddy-Daisy. (2007 Code, § 14-101)

**14-102. Planning commission.** (1) There is hereby established a seven (7) member municipal planning commission.

(2) Membership in the Soddy-Daisy Municipal Planning Commission shall include the mayor and one (1) city commissioner elected by the Soddy-Daisy Board of Commissioners whose terms on the planning commission shall be concurrent with the terms of their official elected office.

(3) In accordance with *Tennessee Code Annotated*, § 13-4-101(a) the remaining five (5) members of the planning commission shall be appointed by the mayor.

(4) In accordance with *Tennessee Code Annotated*, § 13-4-101(a) requiring staggered terms for appointed members, the terms of the five (5) appointed members shall be two (2) members for a one (1) year term; two (2) members for a two (2) year term; and one (1) member for a three (3) year term. Thereafter, the terms of appointed members shall be for three (3) years as the initial appointments expire. (2007 Code, § 14-102)

**CHAPTER 2****ZONING CODE****SECTION**

14-201. Zoning code.

**14-201. Zoning code.** Pursuant to the authority granted by *Tennessee Code Annotated*, § 6-54-501, the zoning ordinance adopted by 2000-2001 ordinance no. 1, as amended, is hereby adopted and incorporated by reference as part of this code and is hereafter referred to as the zoning code.<sup>1</sup>

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<sup>1</sup>The zoning code, and amendments thereto, is of record in the office of the city recorder.

## CHAPTER 3

### FLOODPLAIN ZONING

#### SECTION

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

**14-301. Statutory authorization, finding of fact, purpose and objectives.** (1) Statutory authorization. The legislature of the State of Tennessee has in *Tennessee Code Annotated*, §§ 13-7-201 to 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 Soddy-Daisy, Tennessee, Mayor and Board of Commissioners, do ordain as follows.

(2) Findings of fact.

(a) The City of Soddy-Daisy, Tennessee, Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in 44 CFR chapter 1, § 60.3.

(b) Areas of the City of Soddy-Daisy, 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 chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter 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; and

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

(4) Objectives. The objectives of this chapter 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 home buyers are notified that property is in a floodprone area; and

(h) To maintain eligibility for participation in the NFIP. (Ord. #2015-2016-4, July 2016)

**14-302. Definitions.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter 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 chapter, 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 chapter 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" means 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) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

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

(14) "Existing contraction" 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.

(15) "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.

(16) "Existing structures." See "existing construction."

(17) "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).

(18) "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; or

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

(19) "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.

(20) "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.

(21) "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.

(22) "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.

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

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

(25) "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.

(26) "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.

(27) "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.

(28) "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.

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

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

(35) "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 Soddy-Daisy, 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.

(36) "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.

(37) "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.

(38) "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 chapter.

(39) "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."

(40) "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.

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

(42) "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 chapter, 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.

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

(44) "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.

(45) "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 chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

(47) "100-year flood." See "base flood."

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

(49) "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.

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

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(51) "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.

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

(53) "Special flood hazard area" means 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.

(54) "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.

(55) "Start of construction" means 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.

(56) "State coordinating agency" means 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.

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

(58) "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.

(59) "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: 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 any alteration of a "historic structure;" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(60) "Substantially improved existing manufactured home parks or subdivisions" means 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.

(61) "Variance" means a grant of relief from the requirements of this chapter.

(62) "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 chapter is presumed to be in violation until such time as that documentation is provided.

(63) "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. (Ord. #2015-2016-4, July 2016)

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

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Soddy-Daisy, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated February 3, 2016, and Flood Insurance Rate Map (FIRM), Community 475445, Panel Numbers 47065C0109G, 47065C0118G, 47065C0120G, 47065C0140G, 47065C0209G, 47065C0217G, 47065C0226G, 47065C0227G, 47065C0228G, 47065C0229G, 47065C0231G, 47065C0235G, and 47065C0236G, dated February 3, 2016, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter 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 chapter and other applicable regulations.

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

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and 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 chapter 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 chapter 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 chapter shall not create liability on the part of the City of Soddy-Daisy, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall, upon adjudication therefor, 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 Soddy-Daisy, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2015-2016-4, July 2016)

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

(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 chapter.
  - (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 chapter.
  - (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 § 14-305(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 chapter 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 U.S.C. § 1344.

(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 subsection (2) above.

(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 subsection (2) above.

(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 subsection (2) above.

(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 chapter.

(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 Soddy-Daisy, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2015-2016-4, July 2016)

**14-305. 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 floodwaters into the system.

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

(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 chapter, shall meet the requirements of "new construction" as contained in this chapter.

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall

be undertaken only if said nonconformity 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 U.S.C. § 1334.

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2) below.

(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 subsection (1) above, 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 wall shall be provided in accordance with the standards of this section: "Enclosures."

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 § 14-302). 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 § 14-302). 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 § 14-304(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 floodwaters 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 subsection (2) above.

(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 § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsections (A) and (B) above.

(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 subsection (5) below).

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

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other 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 Soddy-Daisy, Tennessee and certification, thereof.

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

(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 § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new 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 subsections (1) and (2) above.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(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 subsection (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above.

(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 § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of subsection (2) above.

(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 Soddy-Daisy, 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 subsections (1) and (2) above. Within approximate A Zones, require that those in subsection (2) above 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 § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in subsections (1) and (2) above, 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 subsection (2) above.

(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 chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(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 § 14-303(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 §§ 14-304 and 14-305 shall apply.

(8) Standards for unmapped streams. Located within the City of Soddy-Daisy, 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 §§ 14-304 and 14-305. (Ord. #2015-2016-4, July 2016, modified)

**14-306. Variance procedures.** (1) Municipal board of zoning appeals.

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

(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 chapter. 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 one hundred fifty dollars (\$150.00) 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 chapter.

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

(A) The City of Soddy-Daisy, Tennessee, Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(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 chapter 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 chapter, 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 floodwaters and the effects of wave action, if applicable, expected at the site; and

(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 chapter, 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 chapter.

(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 § 14-304(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. (Ord. #2015-2016-4, July 2016)

## CHAPTER 4

### ZONING BOARD OF APPEALS

#### SECTION

- 14-401. Membership terms and compensation.
- 14-402. Meetings and rules of order.
- 14-403. Jurisdiction of the board.
- 14-404. Applications to the board.
- 14-405. Notices.
- 14-406. Hearings.
- 14-407. Condition for board decisions.
- 14-408. Board findings.
- 14-409. Records.
- 14-410. Stay.
- 14-411. Appeal from the board's decision.
- 14-412. Administration.

**14-401. Membership terms and compensation.** The board shall consist of five (5) members who shall be appointed by the mayor for three (3) year terms. Of the initial board, two (2) members shall serve for one (1) year, two (2) members for (2) years, and one (1) member for three (3) years. Thereafter, members shall serve for three (3) year terms. A term of membership is to be considered to have begun on April 1 of the year of appointment. The mayor shall have the power to appoint and reappoint members as of April 1 of any year to bring the terms of the board into compliance with this section should the schedule of terms described herein fall out of compliance. Until such time, members whose terms have expired shall be considered de facto members of the board. Members of the board shall serve without compensation. (2007 Code, § 14-401)

**14-402. Meetings and rules of order.** At the first meeting after the first of April of each year, the board shall elect a chairman and vice-chairman from its own membership. The board shall fix its place of meeting and shall conduct at least one (1) regular meeting a month; provided there are applications to be reviewed by the board. Other meetings of the board shall be held on the call of the chairman and at such times as the board may determine. The presence of three (3) members shall constitute a quorum. In all other matters, the board shall proceed to its own rules of order for the conduct of business, such rules being of public record. The city attorney or his designated representative shall be present at each board meeting if requested by the board. (2007 Code, § 14-402)

**14-403. Jurisdiction of the board.** The board shall have the following powers:

(1) To make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and under the conditions set forth in the following subsections, upon the request of the owner of the property in question;

(2) To interpret the zoning maps and pass upon disputed questions of foot lines or zone boundary lines or similar questions as they arise in the administration of the zoning regulations;

(3) To hear and decide appeals from property owners on actions or decisions by an administrative official in the administration or enforcement of the zoning ordinance; and

(4) To review conditional permits and other special permits specified in the ordinance to determine that the provisions of the chapter are met. In the case of conditional permits and other special permits, the board may set a time period for the permits, at the conclusion of which the board may review for an extension of an additional time period or the termination of the permit. (2007 Code, § 14-403)

**14-404. Applications to the board.** Persons desiring consideration by the board shall apply to the secretary of the board and shall supply such information as the board may require to identify the land and determine the reason for the appeal or review. Each application by a property owner shall be accompanied by a receipt for a fee of fifty dollars (\$50.00), paid to the City of Soddy-Daisy to cover the city's cost of handling the application, no part of which fee is returnable.

Persons objecting to the relief sought by the applicant or interested in the review or determination made by the board may likewise set forth their views and actual evidence in writing and be signed by the objectors. The application and objections shall be submitted to the board within three (3) business days prior to any hearing. (2007 Code, § 14-404)

**14-405. Notices.** A notice of the public hearings held by the board shall be sent by regular mail to each of the property owners within a minimum of three hundred feet (300') of each property in question before the board. Said notice will be mailed at least seven (7) days prior to the public hearing by the board. The most recently updated tax roll for the City of Soddy-Daisy will be the source of ownership information for board purposes. A notice shall be published one (1) day in a daily paper at least seven (7) days before the hearing. (2007 Code, § 14-405)

**14-406. Hearings.** All official actions of the board shall be subject to due notices and public hearings, as established by its rules. Any interested person may appear and be heard subject to procedures adopted by the board.

A review by the planning commission staff may be required for the purpose of obtaining information available as to the effect of a proposed variance, conditional permit, or administrative ruling upon the use, enjoyment, safety, and value of the land and buildings nearby. Such report may contain other information on existing or pre-existing conditions relating to topography, geology, utilities, existing and proposed land use and factors pertaining to the comprehensive plan of the city.

A review by city officials may be required for the purpose of obtaining information as to the effect of a proposed variance conditional permit or administrative ruling upon the flow of traffic, congestion, parking, service for utilities and similar matters usually pertaining to the functions of their office.

The board shall make and record findings of fact relevant to their decisions and shall accept letters and petitions for the record and shall particularly examine the facts relating to the conditions set forth in § 14-407 of this chapter.

The board shall make a determination that it has been delegated authority to render a decision in each case and that it is not performing a legislative function not delegated by the legislative body of the city. (2007 Code, § 14-406)

**14-407. Condition for board decisions.** Before a variance or special exception may be granted, the board must find that the following conditions exist:

(1) That by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment for the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the zoning ordinance would result in peculiar and practical difficulties or undue hardships upon the owner to develop his property in accordance with the use provisions of the zoning regulations.

(2) That the relief of the peculiar hardships, practical difficulties or undue hardships granted by the board would not constitute substantial detriment to the public good or substantially impair the intent and purpose of the zoning ordinance.

(3) That the peculiar hardship, practical difficulties, or undue hardships would apply to the particular land or building regardless of the owner.

(4) That the peculiar hardship, practical difficulties, or undue hardship is not created as the result of an act upon the part of the applicant.

(5) That the peculiar hardship, practical difficulties, or undue hardships asserted by the applicant relate only to the premises for the benefit of which the variance or special exceptions sought and would not be generally applicable to other premises in the city or the general conditions of the applicant.

(6) Provided, however, that where the application for a variance or special exception involves only the addition to or extension of an existing building or structure, the board may allow such addition or extension when said addition or extension would be no less conforming as to setback distances than the existing structure or structures on the same adjacent property; provided further, that such addition or extension is not in conflict with the character of the area in which the property is located or the comprehensive zoning plan.

(7) In each case, the board shall find that the use where proposed will be in harmony with general intent and purpose of the zoning ordinance and shall require such yard requirements, screening, landscaping, ingress and egress controls, sign controls, as reasonable controls so as to make the conditional property use compatible with surrounding property uses and in conformance with the general intent and purpose of the zoning ordinance. (2007 Code, § 14-407)

**14-408. Board findings.** (1) The board shall make its findings in writing on each of the conditions stipulated in § 14-407, and on such additional items presented as evidence which have influenced its decision. The decision of the board shall become effective immediately. Such decision, affirming, revising, or modifying the order, requirement, decision, or determination of the administrator of the zoning ordinance and such conditional permits and other special permits or special exceptions or variances to the provisions of the zoning ordinance shall be effective for an unlimited period of time unless otherwise specified by this chapter or the board.

(2) If the decision of the board has not fully utilized and confirmed by the construction of the improvements contemplated by the applicant within a period of one (1) year or other time certain stipulated by the board, then the applicant will be required to reapply to the board and the application will be reheard upon the ground stipulated by the applicant as of the time of the new application.

(3) The board shall not rehear any case upon the same grounds within a minimum period of one (1) year of its previous hearing date.

(4) The board may adopt for its record such policies as can be reasonably developed for its own guidance in dealing with the more common types of request for adjustment. (2007 Code, § 14-408)

**14-409. Records.** The board shall keep a duplicate record of its proceedings, findings, and action in each case, giving specific reasons for its action and for any deviation from policy it might have established in past cases. The vote of each member on each question shall appear in the record. All records of the board shall be open to the public. (2007 Code, § 14-409)

**14-410. Stay.** Upon applying for special exception, variance, interpretation, or review by the board, the applicant shall stay any cut or fill of

property, construction, or alteration on the building or property for which action by the board is sought. (2007 Code, § 14-410)

**14-411. Appeal from the board's decision.** The action of the board of appeals for variances and special permits shall be final; provided, an appeal from the action of the board may be taken to a court of competent jurisdiction by any aggrieved, affected party. (2007 Code, § 14-411)

**14-412. Administration.** The city manager or his designated assistant shall be the secretary of the board. He shall conduct all official correspondence subject to the rules and direction of the board, and send out all notices and attend all meetings, keep the minutes, compile the records and maintain the official files for the board or cause the same to be done. (2007 Code, § 14-412)

## CHAPTER 5

### MOBILE HOME PARKS

#### SECTION

- 14-501. Definitions.
- 14-502. Sanitation.
- 14-503. Management duties.
- 14-504. Vicarious responsibility of park owners.
- 14-505. Inspection, certificate of occupancy and fees for pre-owned homes; record keeping.
- 14-506. Permissible and prohibited pre-owned homes; age limits.
- 14-507. Inspection of mobile homes.
- 14-508. Remedies provided herein are cumulative.
- 14-509. Violations and penalty.

**14-501. Definitions.** For the purposes of this chapter, the following words and phrase shall have the meanings ascribed to them in this section:

(1) "Mobile home" or "manufactured home" means any structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) or more body-feet in width or forty (40) or more body-feet in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection (1) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established by title 42 of the United States Code. "Mobile home" or "manufactured home" does not include recreational vehicles or campers.

(2) "Mobile home park" or "mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more lots sold or rented for the purpose of affixing a mobile home or manufactured home.

(3) "Occupant" means any person residing in or occupying a mobile home or manufactured home in a mobile home park.

(4) "Operator" means any person who, either personally or through employees, agents, representatives or contractors, owns or is conducting, operating, managing, or carrying on any mobile home park, or any person with control of a mobile home park.

(5) "Owner" means the person(s) who holds the legal or beneficial title of real or personal property.

(6) "Person" means any and all persons, including any natural person, individual, firm or association, limited liability company, and/or any municipal or private corporation, organized or existing under the laws of this or any other state.

(7) "Pre-owned home" means any mobile home or manufactured home that has been previously used as a residential dwelling and has been titled.

(8) "Single-wide" means a mobile home that is constructed as a single self-contained unit and mounted on a single chassis. (Ord. #2017-2018-6, Feb. 2018)

**14-502. Sanitation.** (1) The owner and/or operator shall provide and maintain adequate and sanitary facilities and methods for the storage, collection, handling and disposal of refuse. The storage, collection and disposal of refuse in the central storage area shall not create a health, safety or fire hazard, rodent harborage, insect breeding area, air pollution, or other public or private nuisance.

(a) The owner and/or operator shall provide for central refuse storage and appropriate disposal of the same.

(b) If refuse pick up is not provided within the park, the occupant shall be responsible for transporting refuse to the park's central refuse storage.

(c) The occupant shall be responsible for the proper maintenance and storage of refuse on his or her lot.

(2) The owner and/or operator shall maintain the grounds, buildings and structures in such a manner as to control noxious insect and rodent infestations. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the agency having jurisdiction.

(3) The owner and/or operator shall control growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds. The elimination of such weeds where the growth is limited to a single lot shall be the responsibility of the occupants of said lot.

(4) The owner and/or operator shall not store agricultural pesticides and toxic chemicals in an area accessible to park residents or visitors. If any pesticides or toxic chemicals are stored or made available, they shall be used as directed on the package and in accordance with any applicable environmental regulations, and stored so as not to cause air, surface water or ground water pollution. (Ord. #2017-2018-6, Feb. 2018)

**14-503. Management duties.** (1) The owner and/or operator shall provide a suitable and responsible individual to be in charge of the property and who shall be readily available while the property is occupied.

(2) The owner and/or operator shall comply with the provisions of this chapter and with all conditions imposed in accordance with the law, and shall allow the city manager, codes enforcement officer, public safety officers or other

designated representatives of the city to enter the premises at any reasonable time to ascertain compliance with this chapter.

(3) The owner and/or operator shall be responsible for traffic control measures that will preclude hazards to vehicular and pedestrian traffic, and to ensure ready access to any and all sites by emergency vehicles at all times.

(4) The owner and/or operator shall be responsible for immediately reporting to the codes enforcement officer any interruption in the treatment of supply of drinking water; all fires resulting in a report or call to a fire department or police; and the existence of inadequately treated sewage on the surface of the ground.

(5) The owner and/or operator shall:

(a) Maintain the mobile home park, its facilities and equipment in good repair and in a clean and sanitary condition;

(b) Notify the occupants of the mobile home park of relevant provisions of this administrative regulation, including occupants' duties and responsibilities;

(c) Assign proper orientation and location of each home in the mobile home park;

(d) Maintain a register containing the names of community occupants, to be made available to the codes enforcement officer or other city employees authorized to inspect the mobile home park;

(e) Maintain a map showing the location of each of the lots with their assigned numbers, to be made available to public safety or emergency personnel, the codes enforcement officer or other city employees authorized to inspect the mobile home park;

(f) Provide at every road or driveway intersection within the mobile home park a sign indicating the lot numbers for the row of homes proceeding from the intersection along any drive extending from such intersection;

(g) Provide and affix three by five (3 x 5) reflective numbers corresponding to the numbers on the map provided for in subsection (e) above which would be visible from the roadway for public safety or emergency personnel, the codes enforcement officer, or other authorized city employees; and

(h) Provide and maintain landscaping within the front and side yard areas of each home, and all open areas in the mobile home park not otherwise used. Native and drought tolerant vegetation shall be used to the fullest extent possible in landscaping. (Ord. #2017-2018-6, Feb. 2018)

**14-504. Vicarious responsibility of park owners.** The owner of a mobile home park is vicariously and jointly responsible with the operator for any violations of this chapter. (Ord. #2017-2018-6, Feb. 2018)

**14-505. Inspection, certificate of occupancy and fees for pre-owned homes.** A certificate of occupancy shall be required to locate a pre-owned mobile home or manufactured home in the city.

(1) To apply for a certificate, applicants shall provide to the building inspector:

(a) An affidavit signed by the applicant certifying the age of the home; and

(b) The permit fee required by subsection (4) below.

(2) Inspection. The pre-owned manufactured home must be inspected as provided in § 14-507 prior to its being relocated in the mobile home park.

(3) Certificate of occupancy. A certificate of occupancy shall be issued to the applicant at such time that the building inspector certifies that the requirements of this chapter have been met and final inspection has been made.

(4) Permits. A building and electrical permit must be purchased at Soddy-Daisy City Hall to the home being placed in the mobile home park by the owner of the home. An electrical permit can only be purchased by a licensed electrician.

(5) Recordkeeping. The owner/operator of a mobile home park shall maintain copies of all permits and certificates required of the mobile home park. (Ord. #2017-2018-6, Feb. 2018)

**14-506. Permissible and prohibited pre-owned homes; age limits.**

(1) Unless it passes the inspection provided for in § 13-307 below, a pre-owned mobile home cannot be placed in a mobile home park twelve (12) months after the date it first is titled. In no event may a mobile home, five (5) previous model years or more of age from the calendar year in which placement is sought, be placed in the mobile home park without first passing an inspection as provided in § 13-307.

(2) A mobile home currently located within and owned by the mobile home park over twenty-five (25) model years of age must pass inspection provided for in § 13-307 and must be inspected every five (5) years. Mobile homes over fifteen (15) years of age located within and owned by the mobile home park must pass inspection as provided in § 13-307 to any change in tenants. In no event shall a mobile home located within and owned by the mobile home park exceed forty (40) model years of age.

(3) If, as of May 1, 2018 the owner/operator of a mobile home park asserts that a mobile home previously owned by the owner/operator of the park is now owned by a resident of the park, the owner/operator of the park will be required to produce for inspection

(a) A document of conveyance to the purported new owner;

(b) A copy of the new certificate of title showing the title in the new owner, with, if applicable, the notation of any lien on the title; and

(c) Any written lease agreement or other indicia of a landlord/tenant relationship between the owner/operator of the park and

the resident. If such documents cannot be produced, there will be a rebuttable presumption that the mobile home is still owned by the owner/operator and such home will be subject to the forty (40) year limitation imposed by this section. (Ord. #2021-2022-3, Sept. 2021)

**14-507. Inspection of mobile homes.** All pre-owned manufactured home not exempted or prohibited by the previous section shall comply with the following before being issue a certificate of occupancy by the building inspector.

(1) HUD code. Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Manufactured Home Construction and Safety Standards Act, 42 U.S.C. §§ 5401-5445 *et seq.* and shall not have been altered in such a way that the home no longer meets the HUD code.

(2) Interior condition. Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Door and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, and/or deterioration.

(3) Exterior condition. The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers, and any other condition that might admit rain or moisture to the interior portions of the walls or to be occupied spaces. The exterior siding shall be free of rot, rust, mold and mildew. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.

(4) Sanitary facilities. Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected, and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one (1) bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.

(5) Heating systems. Heating shall be safe and in working condition. Un-vented heaters shall be prohibited.

(6) Electrical systems. Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to assure that all metallic parts are properly bonded. An electrical permit shall be purchased by a licensed electrician. Electricians shall be licensed in the State of Tennessee, Hamilton County or City of Chattanooga. The electrical connection to the meter shall be inspected by the City of Soddy-Daisy prior to final power being turned on to the home.

(7) Hot water supply. Each home shall contain a water heater in safe and working condition.

(8) Egress windows. Each bedroom of a manufactured home shall have at least one (1) operable window of sufficient size to allow egress if necessary.

(9) Ventilation. The kitchen in the home shall have at least one (1) operating window or other ventilation device.

(10) Smoke detectors. Each pre-owned manufactured home shall contain one (1) operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturer's recommendations.

(11) Foundation enclosure, decks, porch and steps. Each mobile home shall have a front porch, minimum size four feet by eight feet (4' x 8'); a back porch, minimum size four feet by four feet (4' x 4'); handrails on each porch shall be a minimum of thirty-six inches (36") in height with pickets no more than four inches (4") apart. Underpinning is required, solid material only. No lattice or plywood allowed. Anchors/ties downs are required as per manufacturer's specifications.

(12) The following fees and expenses will be charged by the building official for inspections provided herein:

(a) Fifty dollars (\$50.00) per inspection within twenty-five (25) miles of the Soddy-Daisy City hall.

(b) Seventy-five dollars (\$75.00) per inspection plus mileage over twenty-five (25) miles from the Soddy -Daisy City Hall. (Ord. #2017-2018-6, Feb. 2018, modified, as amended by Ord. #2021-2022-3, Sept, 2021)

**14-508. Remedies provided herein are cumulative.** Nothing in this chapter shall be construed to impair or limit, in any way, the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures herein provided do not supersede, and this chapter does not repeal, any other measures or procedures which are provided by the ordinances of the city for the elimination, repair or correction of the conditions referred to in this chapter, but the measures and procedures herein provided for shall be in addition to the other powers and authority of the city or its inspector. (Ord. #2017-2018-6, Feb. 2018)

**14-509. Violations and penalty.** Any person, firm, corporation or agent who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor and shall be punished according to the general penalty provisions of this code of ordinances. (Ord. #2017-2018-6, Feb. 2018)