

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. MOBILE HOME ORDINANCE.
3. ZONING ORDINANCE.
4. MUNICIPAL FLOODPLAIN ORDINANCE.

**CHAPTER 1**

**MUNICIPAL PLANNING COMMISSION**

**SECTION**

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

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and alderman selected by the board of mayor and alderman; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall with such compensation as determined by the board of mayor and aldermen. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for five (5) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year; however appointed members at the time of the adoption of the ordinance comprising this chapter shall continue their terms so that one (1) member is up for reappointment each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (as added by Ord. #200, May 2014)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13 and any subsequent amendments or relative chapters of Tennessee Code Annotated as they pertain to a municipal planning commission. (as added by Ord. #200, May 2014)

## CHAPTER 2

### MOBILE HOME ORDINANCE

#### SECTION

14-201. Definitions.

14-202. Application requirements.

14-203. Design requirements.

14-204. Site plan requirements.

14-205. Recreational vehicle (RV) campgrounds.

14-206. Administration and enforcement.

**14-201. Definitions.** Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions where not inconsistent with the context. For the purposes of this ordinance certain words or terms are defined as follows:

(1) The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

(2) "Green strip." A strip of land not less than fifteen (15) feet in width planted in grass, ground covers, shrubs and/or trees. This strip may be provided through the preservation of existing vegetation or the planting of evergreen shrubs or trees which will attain a minimum height of eight (8) feet at maturity and otherwise comply with section 4.25.5 of the Decatur Zoning Ordinance.<sup>1</sup> No structures (except for fences and approved signs) shall be permitted in the green strip.

(3) "Health officer." The Tennessee Department of Conservation and Environment sanitarian/environmentalist or his/her duly authorized representative having jurisdiction over the community health in Meigs County.

(4) "Manufactured home." A structure, transportable in one (1) or more sections which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A manufactured home for the purpose of this ordinance does not include a manufactured unit to be used in conjunction with a commercial or industrial activity.

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<sup>1</sup>The Decatur Zoning Ordinance is of record in the office of the recorder.

(5) "Mobile home." Any vehicle used, or so constructed as to permit it being used as a conveyance upon the public roads or highways, transported as a single chassis, and constructed as a single self-contained unit and in such manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed for long-term occupancy and to be moved infrequently. For purposes of these regulations, any structure defined as a mobile home is considered to be a "manufactured home."

(6) "Mobile home park." The term mobile home park shall mean any plot of ground within the Town of Decatur on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(7) "Mobile home spaces." The term shall mean a parcel of land within a mobile home park designated for the accommodation of one (1) mobile or manufactured home, complete with required parking and utility connections.

(8) "Mobile home subdivision." A subdivision of land specifically created to accommodate mobile homes on individual lots, which are sold in fee simple. Such subdivisions shall meet all of the requirements of the Decatur Subdivision Regulations.

(9) "Modular unit." (sectional or relocatable home): A structural unit, or preassembled component unit including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and not designed for ready removal to another site. This term does not apply to temporary structures used exclusively for construction purposes or nonresidential farm buildings.

(10) "Motor home." A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle. See also "recreational vehicle" or "RV."

(11) "Permit (license)." A permit is required for mobile home parks, single mobile homes and travel trailer parks. Fees charged for mobile home and travel trailer parks under the permit requirements are for inspection and the administration of this resolution.

(12) "Recreational vehicle (RV)." A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle (i.e., travel trailers, camping trailers, truck campers, and motor homes.)

(13) "Recreational vehicle (RV) campground." The term recreational vehicle (RV) campground shall mean any plot of ground within the Town of Decatur on which two (2) or more recreational vehicles, occupied for camping or periods of short stay, are located.

(14) "Set-up." The support system, which is a combination of footings, piers, caps, and shims that when properly installed and inspected by the state electrical inspector, support the mobile home.

(15) "Skirting." An enclosure permanently constructed from weather resistant materials, similar in nature and design to the mobile home, which encloses the space directly beneath the mobile home.

(16) "Travel trailer." A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty square feet (220 sq. ft.), excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(17) "Truck camper." A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**14-202. Application requirements.** (1) Pre-application review. Whenever a mobile home park is proposed on land within the town limits of Decatur, the developer is urged to consult early and informally with the planning commission staff. The developer may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the mobile home park. No fee shall be charged for this review and no formal application shall be required.

(2) Application for mobile home park permit and planning commission approval. (a) Following the optional pre-application review of a proposed mobile home park, the developer of the mobile home park, or his/her agent, shall apply for a mobile home park permit from the zoning administrator or health officer. No mobile home park shall be established or maintained by any person unless such person holds a valid mobile home park permit.

(b) Applications shall be in writing, signed by the applicant and accompanied by the owner's certification and any other certification deemed necessary, as well as by a site plan of the proposed mobile home park and payment of the applicable fee.

(c) The developer shall notify the Decatur Municipal Planning Commission at least fifteen (15) calendar days prior to the next regular meeting of the planning commission of what it is he/she wishes to have on the agenda. At this time, the developer shall also submit copies of the site plan and any supporting documents, if any.

(3) Permit fee. It shall be unlawful to establish or expand a mobile home park or travel trailer park without a permit. The application fee for a permit for a mobile home park shall be one hundred dollars (\$100.00) plus two dollars and fifty cents (\$2.50) for each mobile home space shown in the site plan. The application fee for a permit for a travel trailer park shall be one hundred dollars (\$100.00) plus two dollars and fifty cents (\$2.50) for each trailer or

parking space shown on the site plan. Said fees are non-refundable. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**14-203. Design requirements.** (1) Site requirements. Each mobile home park shall be located outside of flood hazard areas on a well-drained site and shall be situated so drainage will not endanger water supply. Each mobile home park shall be located on a single lot or on adjacent lots of the same ownership and planned so as to facilitate the efficient management and administration of such park.

(2) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than one (1) acre. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(3) Maximum number of spaces. The maximum number of spaces permitted shall be:

- (a) 1 acre 4 spaces
- (b) 1.5 acres 7 spaces
- (c) 2 acres 10 spaces
- (d) 2.5 acres 15 spaces
- (e) above 2.5 acres the maximum density shall not exceed 6 spaces per acre

(4) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least twenty (20) feet of open space between mobile homes or any attachment such as a garage, cabana, deck or porch and at least twenty (20) feet end to end spacing between trailers and any building or structure, twenty-five (25) feet between any trailer and a property line and twenty-five (25) feet from the right-of-way of any public street or highway and ten (10) feet from streets within the park. In addition, each mobile home space shall contain:

- (a) A minimum lot area of five thousand (5,000) square feet;
- (b) A minimum width of at least forty (40) feet and a minimum depth of at least sixty (60) feet;
- (c) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen (15) feet.

(5) Streets, street signs and traffic control. (a) Widths of various streets within mobile home parks shall be:

- (i) One-way ..... 11 ft.  
(with no on-street parking)
- (ii) One-way ..... 19 ft.  
(with parallel parking on one side only)
- (iii) One-way ..... 27 ft.  
(with parallel parking on both sides)
- (iv) Two-way ..... 20 ft.

- (v) (with no on-street parking)  
Two-way . . . . . 28 ft.  
(with parallel parking on one side only)
- (vi) Two-way . . . . . 36 ft.  
(with parallel parking on both sides)

(b) The street layout shall be designed to provide for continuous flow of traffic with traffic control signs placed where necessary.

(c) Permanent signs identifying each street.

(d) Streetlights shall be provided at every street intersection. Streetlights shall be the type provided for the Town of Decatur by Volunteer Electric Coop, provided the planning commission in writing may approve alternate types of streetlights.

(6) Grading, street base and surface course requirements. All mobile home parks shall construct, improve, and maintain all streets within the mobile home park by utilizing double bituminous surface treatment or asphalt hot mix. The grading requirements (i.e., preparation, cuts, fill) and for asphalt hot mix shall be the same standards which are found in the Subdivision Regulations for the Town of Decatur. For double bituminous surface treatment the base shall consist of six inches (6") of crushed stone. The surface course shall be applied in accordance with the following:

(a) The first application shall be of AEP at a rate of 0.30 gallons per square yard. Aggregate shall be No. 8 chips at a rate of thirty-five (35) pounds per square yard.

(b) The second application shall be RS-2 at a rate of 0.35 gallons per square yard. Aggregate shall be No. 7 chips at a rate of thirty (30) pounds per square yard.

(c) The final application shall be RS-2 at a rate of 0.40 gallons per square yard. Aggregate shall be No. 8 chips at a rate of thirty-five (35) pounds per square yard.

(7) Parking spaces. Car parking spaces shall be provided in sufficient numbers to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least two (2) paved parking spaces on each mobile home space plus an additional parking space for each five (5) mobile home spaces to provide for guest parking, for multi-car tenants and for delivery and service vehicles. The extra parking spaces shall be located for convenient access to the mobile home spaces. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

(8) Buffer strip. An evergreen buffer strip or green strip shall be planted along the periphery of the mobile home park. (See definitions.)

(9) Water supply. The developer of a mobile home park shall attach to any public water supply located within one thousand (1,000) feet of the

proposed park. If such a public water supply is available, it shall be used exclusively. If a public water supply is not available, the developer of the mobile home park shall provide a public water supply approved by the Tennessee Department of Environment and Conservation (TDEC). The minimum size of water mains shall be six (6) inches, provided that lines no smaller than two (2) inches may be used for short cul-de-sac streets not to exceed three hundred (300) feet. Fire hydrants shall be located so that no mobile home space shall be more than five hundred (500) feet from a fire hydrant as measured along the streets.

(10) Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a six (6) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort should be made to dispose of the sewage through a public sewerage system. If such a public sewerage system is available, it shall be used exclusively. In lieu of this, a septic tank and sub-surface soil absorption system may be used where approved by TDEC, provided the soil characteristics are suitable and an adequate disposal area is available. This type of sewage disposal may require a reduction in the density of mobile home spaces.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

(12) Required recreation area. A recreation area(s) for the use of all mobile home park residents shall be provided in all mobile home parks. The required recreation area(s) shall be a minimum of two hundred fifty (250) square feet per mobile home space. Mobile home parks with ten (10) or less spaces shall provide a centrally located recreation area with a minimum of two thousand five hundred (2,500) square feet. The minimum size of any recreation area(s) shall be two thousand five hundred (2,500) square feet, fifty (50) feet by fifty (50) feet.

Such recreational land, when provided separately by the mobile home park, shall be maintained in an attractive manner and shall be well-drained and usable for recreation.

(13) Utilities to each space. Each mobile home space shall contain utility connections for water, sewer, electricity, and telephone.

(14) Skirting and anchoring. The owner or operator of a mobile home park may require individual mobile homes within the park to be skirted. Every mobile/manufactured home shall be anchored in accordance with State of Tennessee standards and inspected by the state electrical inspector.

(15) General provisions. (a) Manufactured homes shall not be used for commercial, industrial or other nonresidential uses other than home occupations as allowed by the underlying zoning classification.

(b) A mobile home park may have a management office, community-recreation center, swimming pool, laundromat and such service buildings as are necessary to provide facilities for mail distribution, storage space for supplies, maintenance and equipment necessary for the operation of the park and for the use of the park residents and guests only.

(c) The sale of mobile/manufactured homes shall be allowed in the community provided the home is displayed and offered for sale on the site that is the intended location for said home. Homes may not be offered for sale on a retail basis in the park for siting outside said mobile home park; provided, this provision will not preclude the trade-in and replacement of an existing mobile/manufactured home.

(d) It shall be unlawful for any mobile/manufactured home not to have a set of sturdy, safe steps of wood, metal or concrete for every door to said home.

(e) Accessory buildings are permitted, provided no such building shall be closer than five (5) feet to a space line.

(f) Any mobile home park which has sixty (60) or more spaces shall have a paved area, shown on the site plan, set aside for purpose of storage for boats, travel trailers, RVs and other large items, for use by the residents of that park. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**14-204. Site plan requirements.**<sup>1</sup> The mobile home park site plan shall be clearly drawn at a scale not smaller than one hundred (100) feet to one (1) inch and shall contain:

(1) Name, address and phone number of owner of record and park operator, if different;

(2) Proposed name of park;

(3) North point and graphic scale and date;

(4) Vicinity map showing location and acreage of mobile home park;

(5) Exact boundary lines of the tract by bearing and distance;

(6) Names of owners of record of adjoining land;

(7) Existing streets, utilities, easements, and water courses on and adjacent to the tract;

(8) Proposed design prepared according to the standards in this resolution including streets, proposed street names, boundary lines or mobile

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<sup>1</sup>A copy of the site plan and mobile home park spacing and road requirement maps are available in the office of the recorder.



home spaces with appropriate dimensions, typical mobile home space, easements, water and sewer mains, location of fire hydrants, general parking areas, land to be dedicated for public uses, and any other land/structures to be used for purposes other than mobile home spaces, and a cross-section of streets;

(9) Proposed design for water supply, sewerage, trash collection and drainage;

(10) Such other information as may be required by said town to enable the planning commission to determine if the proposed park will comply with legal requirements; and

(11) The applications and all accompanying plans and specifications shall be filed in triplicate.

(12) Local government agencies, utilities, and surveyor's certification. A block, as shown, shall be provided on the site plan for the signatures of the local governmental review agencies and the developer's surveyor. Designated officials shall sign and date the appropriate lines to certify that the site plan meets their department specifications for adequate development. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**14-205. Recreational vehicle (RV) campgrounds.** Recreational vehicle (RV) parks should be located in commercial areas or recreational areas.

NOTE: Recreational Vehicle (RV) campgrounds, properly regulated, fit well into general commercial complexes in which a variety of complimentary facilities are available nearby--groceries, general stores, filling stations, coin operated laundries, for example, are often in demand by persons looking for campgrounds.

(1) Requirements that are the same as for mobile home parks. Many of the procedures and requirements are the same as for mobile home parks. The developer of a RV campground must follow the requirements of the following sections in §§ 14-202 and 14-203 after changing the words mobile home or mobile home park to read RV or RV campground:

- (a) Pre-application Review (See § 14-202(1))
- (b) Application (See § 14-202(2))
- (c) Permit fee (See § 14-202(3))
- (d) Site requirements (See § 14-203(1))
- (e) Buffer strip (See § 14-203(8))
- (f) Water supply (See § 14-203(9))
- (g) Refuse (See § 14-203(11))

(2) Minimum recreational vehicle (RV) park size. The tract of land designed to be used as a RV campground shall be not less than one (1) acre.

(3) Minimum size of a RV space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of sixty (60) feet including parking space, but with a minimum of two thousand four hundred (2,400) square feet.

Each RV parking space in a RV campground shall be situated such that there is at least fifteen (15) feet from the edge of one RV to any adjacent RV or structure.

(4) Street requirements. A loop or other system of internal private roads shall be built so that all RV spaces take their access from such internal roads rather than directly from a public road. The use of pull-through spaces is permissible. The minimum widths of various streets or roads within a travel trailer park shall comply with the following:

- |     |   |                        |
|-----|---|------------------------|
| (a) | One-way street<br>(with no on-street parking) | 10 feet wide;          |
| (b) | Two way street<br>(with no on-street parking) | 20 feet wide;          |
| (c) | Parallel parking<br>(on one side)             | 8 ft. of add'l width;  |
| (d) | Parallel parking<br>(on two sides)            | 16 ft. of add'l width. |

(5) Sewage disposal. Each recreational vehicle park shall provide an adequate sewage disposal system either by connecting to the Town of Decatur public sewer system or with a system approved in writing by TDEC. Each RV space designed to accommodate RVs requiring external connections to the sewage disposal system shall have such connections approved by the health officer. A collection and disposal system for liquid waste shall also be provided within the park for those recreational vehicles having self-contained waste systems. The liquid disposal and collection system shall meet all TDEC requirements.

The developer of a travel trailer park shall first attempt to dispose of sewage through a public sewerage system. If this attempt is not feasible, then a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available, all approved by the health officer/TDEC.

No RV shall be placed over a soil absorption field.

An approved treatment plant may be used instead of a public sewerage or septic tank system.

(6) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than one hundred eighty-two (182) days.

(7) Parking. Car parking spaces shall be provided in sufficient numbers to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Car parking spaces shall be located for convenient access to the travel trailer spaces. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the travel trailer park. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**14-206. Administration and enforcement.** (1) Highest standards applies. In any case where a provision of this chapter is found to be in conflict with a provision of any private or public act or local ordinance or code, the provision that establishes the higher standard for promotion and protection of the health and safety of the people shall prevail.

(2) Enforcement. It shall be the duty of the county health officer and town-zoning administrator to enforce the provisions of this ordinance.

(3) Decatur Board of Zoning Appeals to hear appeals. The applicability of this ordinance or the validity or applicability of a regulation promulgated pursuant to this ordinance, may be determined in a hearing before the Decatur Board of Zoning Appeals. The board shall grant a hearing to aggrieved persons upon request. The complainant shall file a written petition. The board shall hold an advertised hearing on the appeal within sixty (60) days of receipt of petition. The complainant and all other interested parties shall be given notice of the time and place of the hearing.

The complainant may appeal the board's decision by seeking judicial review.

(4) Variance process. Variance from the requirements of these regulations shall only be based upon hardship created through lot conditions necessitating such when the intent of these regulations shall not be changed. Variance shall be through the approval of the site plan by a two-thirds (2/3) vote of the quorum present. Such variance and the reason as to why granted shall be noted in the minutes of the planning commission.

(5) Improper utility connection. If a utility company or similar public facility corporation connects with the system of a structure or initiates service in violation of this ordinance or the regulations promulgated hereunder, the planning commission through the town attorney shall direct such company or corporation to close the connection and discontinue service at the company's or corporation's expense.

(6) Violations. Violations of this ordinance or the regulations promulgated hereunder shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day a violation is continued shall constitute a separate offense. Prior to the levy of a fine, written notice shall be given to the offender specifying in what manner he has violated this ordinance. This notice shall specify the manner and ordinances necessary to correct conditions in violation.

(7) Existing mobile home parks (grandfather clause). Any mobile home park or RV campground permitted pursuant to the provisions of this ordinance, may be continued even though such use does not entirely conform with the provisions of this ordinance provided they do not violate public health regulations and provided, however, that this ordinance will govern:

(a) Mobile home parks or RV campgrounds re-established after a discontinuance for more than six (6) months;

(b) The extension or enlargement of any mobile home park or RV campground in existence prior to the adoption of this ordinance; and

(c) Mobile home parks or RV campgrounds rebuilt, altered, or repaired after the effective date of this ordinance due to damage or destruction of more than one-half ( $\frac{1}{2}$ ) of the park's total capacity.

(8) Amendment. Any member of the board of mayor and aldermen may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this ordinance. All changes and amendments shall be effective only after a fifteen (15) day official notice and public hearing. No such amendment shall become effective unless it is first submitted to the planning commission for approval. If such amendment is disapproved by the planning commission, it shall receive the favorable vote of a majority of the entire membership of the Decatur Board of Mayor and Aldermen. (Ord. #138, July 2004, as renumbered by Ord. #200, May 2014)

**CHAPTER 3**

**ZONING ORDINANCE**<sup>1</sup>

**SECTION**

14-301. Land use to be governed by zoning ordinance.

**14-301. Land use to be governed by zoning ordinance.** Land use within the Town of Decatur, Tennessee shall be governed by the "Zoning Ordinance," and any amendments thereto.<sup>2</sup> (as renumbered by Ord. #200, May 2014)

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<sup>1</sup>Planning and zoning within the Town of Decatur is regulated by the Meigs County Regional Planning Commission.

<sup>2</sup>The Town of Decatur Zoning Ordinance and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

Amendments to the zoning map are of record in the office of the recorder.

Detailed subdivision regulations of the Town of Decatur are published as a separate document and are of record in the office of the recorder.

## CHAPTER 4

### MUNICIPAL FLOODPLAIN ORDINANCE

#### SECTION

14-401. Statutory authorization, findings of fact, purpose and objectives.

14-402. Definitions.

14-403. General provisions.

14-404. Administration.

14-405. Provisions for flood hazard reduction.

14-406. Variance procedures.

**14-401. 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 Town of Decatur, Tennessee, Mayor and Alderman, do ordain as follows:

(2) Findings of fact. (a) The Town of Decatur, 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 title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the Town of Decatur, 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. (Ord. #89, Nov. 1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)

**14-402. 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' to 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 one hundred (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 Town of Decatur, 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 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 (a) 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:

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

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) 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

(ii) 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. (Ord. #89, Nov.

1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)

**14-403. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the Town of Decatur, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Decatur, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) , Community 47121 CIND0A Panel Number(s) 141, 142, 143, 144, dated September 17, 2010, 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 Town of Decatur, 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 Town of Decatur, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #89, Nov. 1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)

**14-404. Administration.** (1) Designation of ordinance administrator. The city recorder in cooperation with the zoning administrator 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 § 14-405(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 U.S.C. 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 FIRM's 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 § 14-404(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 § 14-404(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(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 Town of Decatur, 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. (Ord. #89, Nov. 1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)

**14-405. 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 provisions 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 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(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 § 14-405(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."

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 § 14-402). 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 § 14-402). 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 § 14-404(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 longer 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 § 14-405(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 § 14-402).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-405(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) 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 § 14-405(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 § 14-403(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 Town of Decatur, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(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 § 14-403(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 § 14-405(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 § 14-403(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 § 14-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home

parcs 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 § 14-402). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(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 Town of Decatur, 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 § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(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 § 14-403(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' to 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 § 14-405(1) and (2) apply:

(a) All new construction and substantial improvements of residential and nonresidential 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 FIRM's, 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 § 14-405(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 § 14-404(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 § 14-403(2), are areas of the one hundred (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 §§ 14-404 and 14-405 shall apply.

(8) Standards for unmapped streams. Located within the Town of Decatur, 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 §§ 14-404 and 14-405. (Ord. #89, Nov. 1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)

**14-406. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The Town of Decatur, 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 (amount) 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 (number of) 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 Town of Decatur, 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, 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 § 14-4206(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 dollar (\$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. #89, Nov. 1994, as replaced by Ord. #173, July 2010, and renumbered by Ord. #200, May 2014)