

**MUNICIPAL ZONING ORDINANCE**  
**FOR**  
**SMITHVILLE, TENNESSEE**

**PREPARED FOR**  
**SMITHVILLE MUNICIPAL PLANNING COMMISSION**

**PREPARED BY**  
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AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY SECTIONS 13-701 THROUGH 13-715, *TENNESSEE CODE ANNOTATED*, TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF SMITHVILLE, TENNESSEE, TO REGULATE WITHIN SUCH DISTRICTS THE LOCATIONS, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES. THE PERCENTAGE OF LOT OCCUPANCY, THE SIZE OF OPEN SPACES, THE DENSITY OF POPULATION, AND THE USES OF LAND, BUILDINGS, AND OTHER STRUCTURES; TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SMITHVILLE, TENNESSEE, AS FOLLOWS:

#### 11-201 TITLE AND PURPOSE

##### 11-201.1 Title

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

##### 11-201.2 Purpose

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. These provisions have been designed to lessen congestion in the streets; to secure safety from fires, panic, and other dangers; to allow adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote adequate transportation, water, sewer, school, park, and other public systems; to conserve the value of buildings; and to encourage the most appropriate uses of land.

#### 11-202 DEFINITION OF TERMS

Unless otherwise stated, the following words shall, for the purpose of this Ordinance, have the meanings indicated:

- 11-202.1 The present tense includes the future; singular includes the plural, and the plural the singular;
- 11-202.2 **"Shall"** in all cases is mandatory and **"may"** is permissive.
- 11-202.3 Words or phrases not defined herein shall be defined according to a general dictionary.
- 11-202.4 Other definitions can be found in Section 11-208.5 pertaining to F-1 Floodplain Regulations.
- 11-202.5 **Abandoned or Obsolete Signs.** A sign either on-premises or off-premises, which identifies, describes, directs attention to, or gives directions for locating any business or establishment no longer in operation, or advertises any product no longer being marketed at that location.
- 11-202.6 **Abuts or Abutting.** Lots or land adjoining but separated by a common property line.

- 11-202.7 **Accessory Structure or Uses.** A subordinate structure and/or use which is incidental to that of the principal structure on the same lot.
- 11-202.8 **Alley.** Any public or private way less than thirty (30) feet in right-of-way width set aside for public travel or for secondary access to abutting property.
- 11-202.9 **Apartment.** A housing structure containing four (4) or more separate dwelling units.
- 11-202.10 **Arterial Street or System.** A continuous highway or system of highways which connects cities and concurrently absorbs collector traffic; including all state highways in Smithville.
- 11-202.11 **Automobile Storage Area.** An off-street area reserved and suitable for automobile storage or parking, providing safe vehicular access to a public street or alley. *(See definition of Parking Space)*
- 11-202.12 **Billboard.** Any sign over 120 square feet in size, generally used for off-premises advertising.
- 11-202.13 **Buildings.** Any structure built or used for, or occupied by, residence, business industry, or other use, including a tent, lunch wagon, dining car, mobile home, travel trailer, or a similar structure, whether stationary or movable.
- 11-202.14 **Center Line of Street.** That line surveyed and monumented by appropriate governmental authority as the center of a street. If such line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.
- 11-202.15 **Circulation.** The flow of traffic, goods, or people within and through an area.
- 11-202.16 **Collector Street.** An urban street which collects traffic from minor streets and feeds it into the arterial system.
- 11-202.17 **Curb Line.** The line formed by a curb extending along its roadbed.
- 11-202.18 **Daycare Center.** A building or structure where care, protection, and supervision are provided, on a regular schedule, at least twice a week to no more than seven (7) children, including the children of the adult provider.
- 11-202.19 **Dwelling.** A house, mobile home, apartment building, boarding house, tourist home, or other structure designed or used primarily for human habitation. For the purpose of this Ordinance, the word "*dwelling*" shall not include a travel trailer, hotel, motel, or tourist court.
- 11-202.20 **Dwelling Unit.** That area in a dwelling structure designed and constructed for the occupancy of one family.
- 11-202.21 **Family.** One or more persons, related by blood, marriage, or adoption or by licensing as a foster home together with incidental domestic servants and temporary non-paying guests, living as a single non-profit housekeeping unit, not to be construed as a club or institutional group.
- 11-202.22 **Flashing Sign.** A directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times in use.
- 11-202.23 **Floor Area Ratio (FAR).** The floor area in square feet of all buildings on a lot, divided by the area of such lot in square feet.
- 11-202.24 **Front Yard.** The yard extending across the entire width of a lot between the right-of-way line of a public street and the nearest part of a principal structure. In the case of a corner lot, the city Building Inspector shall identify the front yard for the purpose of compliance with this Ordinance.
- 11-202.25 **Frontage.** The part of the property along or fronting the street; in the case of a corner lot, the part along or facing the more heavily traveled or primary street. May also be the location of the main entrance to the structure.
- 11-202.26 **Ground Sign.** An on-premises sign (80 square feet or less in size) not attached to any part of any building, supported by uprights or braces, and placed upon the ground.

- 11-202.27 **Group Housing Development.** Two (2) or more dwellings located on the same tract in one ownership and constructed as a planned development.
- 11-202.28 **Height of Building.** The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of a building.
- 11-202.29 **Home Occupation.** A customary home occupation is a gainful occupation or profession conducted by one or more members of the family residing on the premises and conducted within the dwelling. In connection with the home occupation, there can be only one non-resident employee, there can be no change in the external appearance of the building as a result of the home occupation, and there can be no external evidence of the occupation, except that a small non-illuminated professional notice or sign not to exceed one (1) square foot may be mounted on the side of the building.
- 11-202.30 **Landscape Treatment.** The use of both natural and artificial materials to enhance the physical appearance of a site, to improve its environmental setting, or to screen all or part of one land use from another.
- 11-202.31 **Loading and Unloading Space.** An area for the loading and unloading of trucks or other vehicles at least fifty (50) feet in depth, twelve (12) feet in width, with an overhead clearance of not less than fourteen (14) feet, exclusive of access, platform, or maneuvering area.
- 11-202.32 **Lot.** A piece, parcel, or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one or more principal structures and accessory structures and including the open spaces required under this Ordinance.
- 11-202.33 **Lot Coverage.** The relationship between the size of the building site and the amount of land utilized by principal and accessory structures.
- 11-202.34 **Lot Lines.** The boundaries dividing a given lot from the street, an alley, or adjacent lots.
- 11-202.35 **Lot of Record.** A lot whose existence, location, boundaries, and dimensions have been legally recorded in a deed or plat and filed as a legal record.
- 11-202.36 **Medical Clinic.** A licensed facility for examining and treating patients with medical problems on an out-patient basis. A medical clinic is not a methadone treatment clinic or facility or substance abuse treatment facility as per the Smithville Zoning Ordinance.
- 11-202.37 **Methadone Treatment Clinic or Facility.** A licensed facility for counseling of patients and the distribution of methadone for outpatient, non-residential purposes only. A methadone treatment clinic or facility is not a medical clinic or substance abuse treatment facility as per the Smithville Zoning Ordinance.
- 11-202.38 **Mobile Home or Manufactured Home.** A detached residential dwelling consisting of one or more transportable factory-built sections, built on a permanent chassis, installed with or without permanent wheels and with or without a permanent foundation, designed to be used as a dwelling when installed on the site and connected to required utilities, and constructed to include plumbing, heating, and electrical systems within.
- 11-202.39 **Mobile Home Park.** A place or tract of land upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a change is made for such accommodations.
- 11-202.40 **Mobile Home Space.** A well-defined area of sufficient size to accommodate one mobile home within a mobile home park and also to allow for sufficient yard space.
- 11-202.41 **Mobile Home Stand.** A permanent, horizontal foundation or pad, composed of concrete or a land surface upon which the mobile home is placed; normally, concrete blocks are utilized vertically upon the foundation to secure and balance the structure.



- 11-202.42 **Non-conforming Use.** A building, structure or use existing at time of enactment of this Ordinance that does not conform with the provisions of this Ordinance for the district in which it is located.
- 11-202.43 **Off-Premises Sign.** A sign which directs attention to a business commodity or service to be, or being, conducted, sold, rented, leased, or otherwise offered for disposition elsewhere than on the premises.
- 11-202.44 **On-Premises Sign.** A sign which advertises goods, services, facilities, events or attractions available on same premises or identifies the owner or occupant of same premises.
- 11-202.45 **Parking Space.** One vehicular parking space at least two-hundred (200) square feet in area and at least ten (10) feet in width.
- 11-202.46 **Point of Access.** On a public street, a driveway cut not exceeding twenty-five (25) feet in width, except as otherwise provided, in this Ordinance.
- 11-202.47 **Portable Sign.** A sign which is designed to be readily transportable from place to place, not permanently attached to a footer or masonry foundation, or any such sign, which generally meets this criteria, as shall be determined by the building official to be a portable sign.
- 11-202.48 **Principal Structure.** A structure in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed the principal structure on the lot on which the same is situated. Carports and garages, if permanently attached to the principal structure, as well as awnings, porches, patios, or similar attachments, shall be deemed a part of the principal structure with regard to meeting any yard requirement.
- 11-202.49 **Projecting Sign.** Any sign attached to or extending from a building, roof or awning.
- 11-202.50 **Public Use.** Public uses and structures are those that are government owned and/or operated and considered necessary to promote the continued health, education, and welfare of the community, and are not basically commercial or industrial.
- 11-202.51 **Rear Yard.** The yard extending across the entire width of a lot between the rear lot line and the nearest part of a principal structure.
- 11-202.52 **Right-of-Way Line of Street.** That line surveyed or approved by appropriate governmental authority as the outer boundary of a street. Such line is identical to or contiguous with any property line abutting a street, and is often referred to as "*street line*".
- 11-202.53 **Roof Sign.** Any sign erected, constructed, or maintained upon the roof of any building (cannot exceed maximum sign height).
- 11-202.54 **Semi-Public Use.** Semi-public uses and structures are those that are not government owned and/or operated, that serve a general-use need in the community, and that are basically not commercial or industrial.
- 11-202.55 **Shopping Center.** A group of compatible commercial establishments planned, developed, and managed as a unit, with an automobile storage area provided, on the property; the center must also be related in location, size, and type of shops to its trade area.
- 11-202.56 **Side Yard.** The yard extending along a side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of a principal structure.
- 11-202.57 **Sign.** Any structure or part thereof or device attached thereto, painted on, or in any other manner represented on a building or other structure, which is used to announce, direct attention to, or advertise, and is visible from outside a building, which displays any writing (including letter, word, or numeral); pictorial representation (including illustration or decoration); emblem (including device, symbol, or trademark); flag (including banner or pennant); or any other figure of similar character. Any of the above characteristics constitutes a sign within a

- building, only when illuminated and located in a window. For the purposes of removal, signs shall also include all sign structures. (See other definitions for specific types of signs, including billboard, flashing sign, ground sign, off-premises sign, on-premises sign, portable sign, projecting sign, temporary sign, wall sign and abandoned sign.)
- 11-202.58 **Sign Area.** The area of the sign, excluding the structural elements lying outside the limits of such sign and not forming an integral part of the display.
- 11-202.59 **Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy shall not be counted as a story.
- 11-202.60 **Street.** Any public or private way thirty (30) feet or more in right-of-way width set aside for public travel or for primary access to abutting property. The word "street" shall include the words "road", "highway", and "thoroughfare".
- 11-202.61 **Substance Abuse Treatment Facility.** A licensed facility with purpose of providing out-patient treatment, counseling or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances. A substance abuse treatment facility is not a medical clinic or methadone treatment clinic or facility as per the Smithville Zoning Ordinance.
- 11-202.62 **Structure.** Any constructed or erected material or combination of materials, requiring space, including, but not limited to, buildings, stadiums, towers, sheds, storage buildings, swimming pools, fences, and signs.
- 11-202.63 **Temporary Sign.** Any sign which is by reason of construction or purpose is not permanent.
- 11-202.64 **Total Floor Area.** The area of all floors of a building, including finished attic, finished basement, and enclosed porches used for habitation.
- 11-202.65 **Travel Trailer (or Recreational Vehicle).** A structure, built on a vehicular chassis, having a body width not exceeding eight (8) feet, and designed for use as temporary housing for travel and recreational purposes.
- 11-202.66 **Wall Sign.** Any sign on any surface or lane that may be affixed parallel to or painted on the wall of any building.
- 11-202.67 **Yard.** Open space on the same lot with one or more principal structures, unoccupied, and unobstructed by buildings from the ground to the sky, except as otherwise provided, in this Ordinance. (*See also Front Yard, Rear Yard and Side Yard*)
- 11-202.68 **Yard Depth.** The shortest distance between the right-of-way line of a public street and the nearest part of a principal structure on a lot.

## 11-203 GENERAL PROVISIONS

Except as herein provided, no structure or land shall be used and no structure or parts thereof shall be erected, moved, or altered, unless for a use permitted by and in conformity with the regulations for the district in which it is located.

### 11-203.1 Continuance of Non-conforming Uses and/or Structures

Any existing structure or use which does not conform to the provisions of this Ordinance or subsequent amendment thereto may be continued with these limitations:

- 11-203.1.1 A non-conforming structure or use can be changed to a similar non-conforming use but cannot be changed to one of greater non-conformity.
- 11-203.1.2 When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued or abandoned for a period of twelve (12) months for residential use and thirty (30) months for a commercial or industrial use (regardless of any reservation or intent not to abandon and to resume such use), such use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the regulations of the zoning district in which such land or structure shall comply with the regulations of the zoning district in which such land or structure is located.
- 11-203.1.3 A non-conforming use of land shall be restricted to the lot occupied by such use.
- 11-203.1.4 Any nonconforming structure or structure used for a nonconforming use that is destroyed by fire or other natural disaster may be reconstructed to the point of use and size at the time the disaster occurred provided all provisions of Section 13-7-208 of Tennessee Code are met.
- 11-203.1.5 A building permit for the reconstruction of a nonconforming structure or a structure for a nonconforming use must be obtained within the established time period (twelve (12) months for a residential use and thirty (30) months for a commercial and industrial use), from the date of destruction of the structure. Any reconstruction must be completed within twelve (12) months of the date of the issuance of the building permit.
- 11-203.1.6 Any questions involving the above non-conforming provisions shall be reviewed and interpreted by the Board of Zoning Appeals.
- 11-203.1.7 Except as provided in Section 13-7-208, subsection (l), **Tennessee Code Annotated**, the provisions of Section 13-7-208, subsections (b) – (d), **Tennessee Code Annotated** shall not apply if an industrial, commercial, or other business establishment ceases to operate for a period of thirty (30) continuous months and the industrial, commercial or other business use of the property did not conform with the land use classification as denoted in the existing zoning regulations for the zoning district in which it is located. Anytime after the thirty (30) month cessation, any use proposed to be established on the site, including any existing or proposed on-site sign, must conform to the provisions of the existing zoning

regulations. For the purposes of this subsection (g), the thirty (30) month period of continuous ceased operation shall be tolled by:

- 11-203.1.7a The period in which an industrial, commercial, or other business establishment is party to any action in a court of competent jurisdiction regarding the use of the property until such time that a final settlement, order, decree, or judgment has been rendered;
- 11-203.1.7b Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within thirty (30) months of cessation of continuous use;
- 11-203.1.7c The filing of an application for a building permit for the alteration, renovation or reconstruction of a structure which is non-conforming or of a structure in which or out of which a non-conforming industrial, commercial, or other business use operates or is located; or
- 11-203.1.7d The reactivation of the non-conforming use any time prior to the end of the thirty (30) month period; provided, however, that the restrictions of subsections (g) and (i) shall only apply if the property owner intentionally and voluntarily abandons the non-conforming use of the property. In any contested matter on the use of such property, the government has the burden of proving an overt act of abandonment in such matter.

## **11-203.2      Number of Structures and Uses Associated with a Lot**

- 11-203.2.1 Only one principal structure and its customary accessory structures shall hereafter be erected on any lot in a residential district, with the exception of group housing developments and mobile home parks.
- 11-203.2.2 Each structure shall meet requirements for yards, open space, automobile storage area or loading/unloading space. No part of a yard or other open space, automobile storage area or loading and unloading space required about or in connection with any structure for the purpose of complying with this Ordinance, shall be included as a part of a yard, or other open space, or automobile storage area, or loading or unloading space similarly required for any other structure. *(See also Lot of Record, Section 11-215.2.2.)*
- 11-203.2.3 No building shall be erected on a lot which does not abut at least one street for at least fifty (50) feet. This Section shall not apply to properties abutting a cul-de-sac, or to those with an easement of at least thirty (30) feet in width to a street which has been accepted as a public thoroughfare.

**11-203.3      Minimum Lot Area**

No existing yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. This Section shall not apply when a portion of a lot is acquired for a public purpose. *(See also Lot of Record, Section 11-215.2.2.)*

**11-203.4      Rear Yard Abutting a Public Street**

When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the property line, as required for adjacent properties which front on that street. *(See also Front Yards, Section 11-215.1.)*

**11-203.5      Obstruction to Vision at Street Intersection**

In all districts, except the Central Business Districts, on a corner lot, there shall be no obstruction to vision between a height of three and one-half (3-1/2) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. This Section shall not be deemed to prohibit any necessary retaining wall.

**11-203.6      Future Street Lines**

For the purpose of providing adequate space for the future widening of streets, required setbacks, or front yards shall be determined by the right-of-ways as shown on the latest official Smithville, Tennessee Thoroughfare Plan.

**11-203.7      Parking lots associated with new construction in commercial or industrial zones**

All new construction on lots located within commercial and industrial zones shall have their parking areas paved with asphalt or concrete.

**11-203.8      Vehicular Access Control**

11-203.8.1      In a residential or industrial district, a point of access shall not be permitted within thirty (30) feet of the curb line (or street line when there is no curb) of any public street intersection.

11-203.8.2      In business districts, a point of access shall not be permitted within twenty (20) feet of the curb line (or street line when there is no curb) of any public street intersection.

11-203.8.3      In non-residential districts, vehicular service uses may be permitted points of access exceeding twenty-five (25) feet but not exceeding thirty-five (35) feet in width; provided, that they do not exceed fifty (50) percent of their respective street frontage.

- 11-203.8.4 On lots with less than one hundred (100) feet of street frontage, there shall be only one point of access per adjoining street; however, on lots with more than one hundred (100) feet, there shall be not more than two (2) points of access per adjoining street.

**11-203.9 Signs Permitted in All Districts**

- (a) Signs of duly constituted governmental bodies including warnings at crossroads.
- (b) Memorial plaques, cornerstones, historical tablets, and the like.
- (c) Signs not visible off the lot upon which they are situated.
- (d) On premise signs
- (e) Off-premise signs located on private property with property owner consent

**11-203.9.1 Signs Prohibited in All Districts**

- (a) Signs on any vacant lot or parcel of land lying between two (2) residential structures or uses where said structures or uses are less than one hundred (100) feet apart or located within fifty (50) feet of any residential use in the same block frontage.
- (b) Any abandoned or obsolete signs, particularly those on abandoned or vacant buildings.
- (c) Signs painted on or attached to fence posts, trees, rocks, canopy posts, utility poles, and the like.
- (d) Signs located on federal, state or municipal right-of-ways.

**11-203.9.2 Signs Permitted in all C and I Districts**

- (a) The size of wall sign(s) cannot exceed 15% of total size of front wall, based on height and width of whole wall, on which the sign is located, with no maximum size wall sign.
- (b) If several businesses are located in a “strip center”, the wall sign for each business cannot exceed 15% of the portion of the wall which forms the front of that business.
- (c) If a business wants to put a wall sign on both front and side walls, the combined total of signs cannot exceed 20% of the size of the front wall.
- (d) The maximum size for ground sign(s) is 120 sq. ft.

**11-203.9.2 General Regulations**

- (a) A **building permit** is required for all signs constructed, installed, replaced, re-located, or expanded within the corporate limits of the City of Smithville. Applicants shall provide the Building Inspector with plans and specifications identifying the location, type, and design of proposed and existing signs. If the Building Inspector reviews and finds that the application conforms to all requirements of this Section on Signs, the Building Inspector shall submit all sign permits to the Planning Commission

- (b) The **Building Inspector** shall inspect at any time deemed necessary each sign regulated by this Section to ensure that such signs conform to these and all other pertinent regulations.
- (c) **Setbacks.** In all districts, except C-2, the minimum setback for all signs shall be ten (10) feet off street right-of-way, except for traffic control. Placement of signs shall not interfere with or impede visibility for pedestrians or automobiles.
- (d) **Height.** Maximum height for signs, including roof signs is 25 feet from ground level.
- (e) **Projecting Signs.** Must be at least nine (9) feet off ground level, and may extend over the public sidewalk in C-2 District to within two feet of the sidewalk's outer edge.
- (f) **Portable or Temporary Signs.** May not be placed on any street right-of-way or on sidewalks. Because wiring to portable signs is usually exposed and not buried in conduit, wiring from sign to the electrical outlet may not be more than eight (8) feet long. Portable signs may not be used for off-premises advertising, except for educational, religious or charitable events.
- (g) **Electrical Requirements.** All wiring for signs shall conform to Local, State and National Electrical Code. Any wiring not in conformance on the effective date of this Ordinance will be brought into compliance within 90 days.
- (h) **Violations and Penalties.** The owner and lessee of the property on which the sign is located shall be responsible for it and shall be subject to the general penalties clause of this Ordinance for failure to comply with the provisions herein stated. Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements, shall upon conviction thereof, be fined under the General Penalty Clause of this Code.

## **11-203.10      Landscape and Screening Treatment**

Landscaping or screening shall be required per the guidelines established in the different zoning districts or as deemed appropriate by the Planning Commission.

### **11-203.10.1      Plan Required**

For all uses requiring screening, a plan for such shall be submitted with the required site plan.

### **11-203.10.2      Standards for Screening Materials**

1. When fences or walls are utilized in screening, they shall be constructed of materials compatible with the principal building.
2. When earthen berms are utilized in screening, they shall be seeded and/or sodded.
3. Trees and shrubbery shall be of a species common to Smithville, shall be hardy, and proper care shall be taken in planting.

### **11-203.10.3      Maintenance of Screening**

1. It shall be the obligation of the owner(s) of each building, structure or use on whose premises required screening is located to maintain said screening.
2. Failure to properly maintain required screening shall be a violation of this Official Zoning Code, punishable as a misdemeanor or under the provisions of the City of Smithville Municipal Code.

### **11-203.11      Plot Plan Requirements**

The purpose of this provision is to prevent undesirable site development which would unduly create inadequate circulation and unnecessary congestion; to obtain maximum convenience, safety, economy, and identity in relation to adjacent sites; and to provide maximum flexibility for expansion, change in use, and adaptation to individual needs.

Thus, applicants for building permits must submit scale drawings according to the particular types of development proposals, to the Building Inspector, in accordance with the following procedures:

- 11-203.11.1      Proposals for the construction or location of any principal structure on a lot (with the exception of single-family, two-family, three-family dwellings and agricultural structures) shall be submitted at a scale no smaller than 1" = 100', and must exhibit required automobile storage areas, loading and unloading spaces, maneuvering areas, openings for ingress and egress to public streets, setbacks and landscape treatment, in accordance with General Provisions previously outlined in the Ordinance.
- 11-203.11.2      Proposals for group housing developments, including mobile home parks, and for planned shopping centers shall follow separate provisions subsequently outlined in this Ordinance.
- 11-203.11.3      The above applications must be submitted to the Planning Commission for review and consideration and must be supported by any other information or data as might be deemed necessary by the Building Inspector.

### **11-203.12      TEMPORARY USES**



The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, non-permanent in nature.

#### 11-203.12.1

- A. Application for a Temporary Use Permit shall be made to the Building Inspector and shall contain the following information:
  - 1. A site plan for the proposed temporary use.
  - 2. A description of the proposed use.
  - 3. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to service the proposed use.
- B. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

#### 11-203.12.2

Festivals/Street Fairs/Non-profit Fundraising Events/Non-vending Organizations – In any non-residential district, a Temporary Use Permit may be issued for Festivals/Street Fairs/Non-profit Fundraising Events/Non-vending Organizations, but such permit shall be issued for a period of not longer than five (5) days. This time period can be extended by the Planning Commission. Such a use shall have a setback distance from all residential districts of one-hundred feet (100') or more. The local event coordinator, board, or designated representative organizing these events receive a permit from the Building Inspector to obtain approval for the event and authorization to issue permits to participants within said event.

#### 11-203.12.3

Christmas Tree Sales—In any non-residential district, a Temporary Use Permit may be issued for the display and open lot sales of Christmas trees, but such permit shall be issued for a period of not longer than thirty (30) days.

#### 11-203.12.4

Fourth of July Fireworks Sale – In any Commercial District, a Temporary Use Permit may be issued for the display and open tent sales of fireworks for not longer than twenty-one (21) days prior and not longer than seven (7) days following the Fourth of July Holiday, but such permit shall not be issued for a period longer than thirty (30) days.

#### 11-203.12.5

Tent Sales – In any Commercial District, a Temporary Use Permit may be issued for an on-premise tent sale for any business. All tents shall be located within the required front, side or rear yard setbacks. No tent shall impede ingress/egress or be placed in a way to prohibit access to any fire lane. Tent sales shall be limited to no more than fourteen (14) consecutive days. There shall be a minimum of thirty (30) consecutive days between tent sales on any individual lot or parcel.

#### 11-203.12.6

Temporary Buildings – In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such office or shed shall not contain sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year but may be renewed a maximum of two (2) one-year extensions. However, such office or shed shall be removed upon completion of the construction project or upon expiration of Temporary Use Permit, whichever occurs sooner.

#### 11-203.12.7

Real Estate Sales Office – In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved in accordance with the provisions of the Ordinance regulating subdivisions. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but, may be renewed a maximum of three (3) one-year extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

#### 11-203.12.8

Religious/Non-profit Tent Use – In any district, a Temporary Use Permit may be issued for a tent or other temporary structure to house religious/non-profit activities, but such permit shall be valid for not more than thirty (30) days during any calendar year.

#### 11-203.12.9

Portable Storage Container – In any Residential or Commercial District, a Temporary Use Permit shall be required for a portable storage container and issued subject to the following requirements:

- A. The use of a portable storage container shall be limited to no more than sixty (60) consecutive days in any year. In the event the owner of the property suffers a catastrophic loss due to fire, flood or other physical calamity occurring on the property in question, the Temporary Use Permit may be extended for additional two (2) week periods upon a showing of need. There shall be no more than three (3) extensions of any Temporary Use Permit. An exception to this shall be made if the portable storage container is being used as temporary storage when work requiring a building or demolition permit is being done to structures or buildings on the property. In such cases, the use of the portable storage container shall not exceed the period for which the building or demolition permit has been issued.

- B. Portable storage containers shall not be placed in a public right-of-way, or located so as to interfere with traffic visibility.
- C. Portable storage containers shall not be placed in the front yard of the main building, unless there is a physical hardship or characteristic of the property that will not allow the placement of the container in any other location.

11-203.12.10

All existing temporary structures at the time of the signing of this Ordinance will be considered “grandfathered in” and will be allowed to continue to operate inside the Smithville City Limits, as long as their permits are current.

**11-203.13      MINIMUM SITE PLAN REQUIREMENTS FOR MULTI-FAMILY  
RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DEVELOPMENTS**

- A. Plan shall be drawn on an 11”x17” legal paper at a scale of no less than 1” = 100’. A scale of 1” = 50’ may be required by the Planning Commission if required information cannot be clearly depicted at the 1” x 100’ scale.
- B. North arrow, scale, vicinity map and date.
- C. Title Block: Name and address of the project of development including the name, address, and telephone number of the owner/developer. If a professional engineer, architect, surveyor, and/or landscape architect are required by the city, their names, addresses and phone numbers are to also be included.
- D. Name of surrounding property owners.
- E. Existing topography – one (1) or five (5) foot contour intervals.
- F. Existing vegetation, waterways, floodplains, utility easements and right-of-ways.
- G. All front, side and rear setbacks.
- H. Size and location of all proposed buildings and structures to be constructed on site.
- I. Location of all proposed streets, easements and other public access drives.
- J. All required parking spaces, turn-arounds, access drives, drive thrus and sidewalks.
- K. All proposed loading and unloading areas.
- L. Depending on the project, the city may require proposed contours (grading plans) shown at one (1) or two (2) foot contour intervals.
- M. Location of all existing utilities (water, sewer, electric, gas, fire hydrants, etc.)
- N. Plans for storm water drainage and retention to control run-off and floodplain management.
- O. All landscape buffer and screening areas.

- P. Proposed locations of all signs on site.
- Q. The Planning Commission may require the applicant to retain the services of an engineer or surveyor to prepare a detailed stormwater management plans.

## **11-204 ESTABLISHMENT OF DISTRICTS**

### **11-204.1 Classification of Districts**

The corporate limits of Smithville, Tennessee, is hereby divided into the following districts:

Residential R-1 Districts (Low Density)	Section 11-205
Residential R-2 Districts (High Density)	Section 11-206
Commercial C-1 Districts (Local)	Section 11-208
Commercial C-2 Districts (Central Business District)	Section 11-209
Commercial C-3 Districts (General)	Section 11-210
Industrial I-1 Districts (Light)	Section 11-212
Industrial I-2 Districts (Heavy)	Section 11-213
(Overlay) Floodway F-1 Districts	Section 11-219

#### **11-204.2      Zoning Map**

The boundaries of these districts are hereby established as shown on the Municipal Zoning Map of Smithville, Tennessee, and currently dated \_\_\_\_\_, which is on file in the office of the Mayor.

Unless otherwise indicated on the zoning map, the district boundaries follow lot lines, the center lines of streets or alleys, railroad right-of-ways, or the corporate limit lines as they existed at the time of enactment of this Ordinance.

Where a district boundary divides an existing lot, and the major portion of said lot is in a less restricted district, the regulations pertaining to that district may apply twenty (20) feet within the more restricted district.

## **11-205 PROVISIONS GOVERNING R-1 RESIDENTIAL DISTRICT (Low Density)**

### **11-205.1 Uses Permitted**

- 11-205.1.1 Single-family dwelling, excluding mobile homes.
- 11-205.1.2 The taking of boarders or the renting or leasing of rooms by the family resident on the premise; provided, that not over fifty percent (50%) of the total floor area is used for such purpose.
- 11-205.1.3 Customary home occupations or studios conducted within the principal structure by a person residing in the premises, and one non-resident employee; provided, that not over fifty percent (50%) of the total floor area is used for such purpose.
- 11-205.1.4 One unilluminated temporary on-site sign not exceeding sixteen (16) square feet in area, advertising the sale of farm or garden products for the duration of the harvest season.
- 11-205.1.5 Other signs as permitted in Section 11-203.9.1.
- 11-205.1.6 Agricultural.
- 11-205.1.7 Accessory uses or structures customarily incidental to the above permitted uses.
- 11-205.1.8 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

### **11-205.2 Uses Permitted On Appeal as Special Exceptions**

- 11-205.2.1 Churches and other places of worship; parish houses; public libraries; schools offering general education courses; public parks and public recreational facilities; municipal, county, state, or federal uses, except storage facilities; public utilities, except storage facilities; cemeteries; philanthropic institutions and clubs, except clubs in which the chief activities are customarily carried on as businesses; and any other similar uses or structures.
- 11-205.2.2 All of the above are subject to such conditions listed in Section 11-215, Exceptions and Modifications, which the Smithville Board of Zoning Appeals will utilize in order to preserve and protect the character of the district in which the proposed use is located.
- 11-205.2.3 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.
- 11-205.2.4 Residential Care Home for Aged in accordance with specific provisions of 11-213.5.
- 11-205.2.5 Day Care Facilities for Young Children or Elderly Adults in accordance with specific provisions of 11-213.6.

**11-205.3      Uses Prohibited**

- 11-205.3.1      Professional Offices, Hospitals, Junkyards.
- 11-205.3.2      Uses not specifically permitted or permitted on appeal.
- 11-205.3.3      Off premises signs and other signs as prohibited in Section 11-203.9.2.

**11-205.4      Lot and Yard Requirements****11-205.4.1      Lot Area and Lot Width**

- (a)      Minimum lot area for single-family = 10,000 sq. ft.
- (b)      Minimum lot area for single-family without sewer = as required by State Environmentalist
- (c)      Minimum lot area for churches = 25,000 sq. ft.
- (d)      Minimum lot width at building line = 75 feet

**11-205.4.2      Front Yards**

All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below according to their classifications as indicated on the latest official municipal thoroughfare plan:

Arterial Streets	50 feet
Collector Streets	40 feet
Minor Streets	30 feet

**11-205.4.3      Rear and Side Yards**

- (a)      Minimum rear yard = 20 feet
- (b)      Side yard for one- or two-story buildings = 15 feet
- (c)      Side yard for three-story buildings = 20 feet
- (d)      For street side portions of corner lots = Minimum side yard plus five (5) feet.

**11-205.4.4      Building Area**

On any lot, the area occupied by all structures, including accessory structures shall not cover more than thirty (30) percent of any required rear yard.

**11-205.4.5      Height**

Dwelling structures shall not exceed three (3) stories or thirty-five (35) feet in height. Accessory structures shall not exceed two (2) stories in height.

**11-205.4.6      Location of Accessory Structures**

- (a) With the exception of signs, accessory structures shall not be erected in any required front or side yards.
- (b) Accessory structures shall be located at least five (5) feet from all lot lines and from any building on the same lot.
- (c) On any corner lot adjoining in the rear another lot which is in a residential district, no part of any accessory structure within ten (10) feet of the common lot line.

11-205.4.7 Subject to off-street parking requirements in Section 11-203.7.

## **11-206 PROVISIONS GOVERNING R-2 RESIDENTIAL DISTRICTS (HIGH DENSITY)**

### **11-206.1 Intent**

To accommodate relatively large numbers of dwelling units in relation to land area at locations where large volumes of traffic can be safely handled; public schools, water, sewerage, and other community facilities are readily available; and commercial services are within normal walking distance.

### **11-206.2 Uses Permitted**

- 11-206.2.1 Any use or structure permitted in Residential R-1 Districts.
- 11-206.2.2 Multiple family dwellings.
- 11-206.2.3 Group housing developments, including mobile home parks, in accordance with provisions set forth herein in Section 11-206.9.
- 11-206.2.4 Signs as permitted in Section 11-203.9.1.
- 11-206.2.5 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

### **11-206.3 Uses Permitted on Appeal**

- 11-206.3.1 Uses or structures permitted on appeal in Residential R-1 Districts.
- 11-206.3.2 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.
- 11-206.3.3 Residential Care Home for Aged in accordance with specific provisions of 11-213.5.
- 11-206.3.4 Day Care Facilities for Young Children or Elderly Adults in accordance with specific provisions of 11-213.6.
- 11-206.3.5 Commercial uses that would compliment the district.

### **11-206.4 Uses Prohibited**

- 11-206.4.1 Uses not specifically permitted, permitted on appeal, or permitted by implication.



- 11-206.4.2 Off-premises advertising signs and other signs as prohibited in Section 11-203.9.2.

**11-206.5 Lot Area, Lot Width, Rear and Side Yards Requirements**

- 11-206.5.1 For single-family, two-family, three-family dwellings, individual mobile homes and non-residential uses:

- (a) Minimum lot area on sewer:  
Single family structure = 7,500 sq. ft.  
Two-family structure = 12,500 sq. ft.  
Three-family structure = 15,500 sq. ft.
- (b) Minimum lot area not on sewer:  
as required by State Environmentalist
- (c) Other requirements for individual mobile home on lot in Section 11-206.8.
- (d) Minimum lot area for churches = 25,000 sq. ft.
- (e) Minimum lot width at building line = 60 ft.
- (f) Minimum rear yard = 20 feet
- (g) Minimum side yard:  
For one- or two-story buildings = 10 feet  
For three-story buildings = 15 feet
- (h) For street side portions of corner lots = Minimum plus five (5) feet

**11-206.5.2 For Apartment Buildings**

- (a) Minimum lot area for first four-units in building = 20,000 sq. ft.
- (b) Minimum lot area for each additional dwelling unit, after first four = 2,000 sq. ft.
- (c) Minimum lot width at building line = 75 feet
- (d) Minimum rear yard = 30 feet
- (e) Minimum side yard:  
For one- or two-story buildings = 15 feet, plus an additional five (5) feet for each additional story
- (f) For street side portions of corner lots = 20 feet, plus an additional five (5) feet for each additional story

- 11-206.5.3 For apartments in 2 or more buildings, group housing developments and mobile home parks, see Section 11-206.9.

**11-206.5.4 Front Yards**

All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below according to their classifications as indicated on the latest official municipal-regional thoroughfare plan:

Arterial Streets	50 feet
Collector Streets	40 feet
Minor Streets	30 feet

**11-206.5.5      Building Area**

On any lot or tract containing an apartment building, the area occupied by the principal structure, and any accessory structures, shall not exceed sixty (60) percent of the total area. On any other lot, the total building area shall not exceed fifty (50) percent.

**11-206.6      Height**

Principal structures shall not exceed three (3) stories nor thirty-five (35) feet in height, unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet or fraction thereof of additional height. No accessory structure shall exceed two (2) stories in height.

**11-206.7      Location of Accessory Structures**

11-206.7.1      With the exception of signs, accessory structures shall not be erected in any required front or side yard.

11-206.7.2      Accessory structures shall be located at least five (5) feet from all lot lines and from any building on the same lot.

**11-206.8      Requirements for Individual Mobile Homes on Lots of Record**

Where mobile homes are allowed on individual lots, they shall have a permanent concrete or masonry foundation; tongue cut off; permanent driveway; shall be underpinned; shall meet all area regulations of the district; and shall further comply with all applicable federal, state and local housing, building and construction codes. The following conditions will also be met:

11-206.8.1      Lot and location of structure meet all area, yard and setback requirements of the zone in which it is located.

11-206.8.2      Have a minimum of 700 square feet of floor area.

11-206.8.3      Be connected to all utilities, including public sewer, if available, or meet requirements of Tennessee Department of Health and Environment for septic tank installation.

11-206.8.4      Structure to meet federal standards identified as the Mobile Home Construction and Safety Standards, Part 280 of Code of Federal Regulations, Title 24-HUD.

11-206.8.5      Structure to meet requirements of Standards for Mobile Homes, 1977, National Fire Protection Association (NFPA) and Manufactured Housing Institute (MHI).

11-206.8.6      Pass inspection by the Building Inspector.

**11-206.9      Group Housing Developments and Mobile Home Parks**

**11-206.9.1      Intent**

To provide maximum flexibility in design and to ensure minimum standards of site development for group housing, mobile home parks, or other projects involving the location of two or more residential structures on a single lot or tract of land, not subdivided.

#### **11-206.9.2      General Location Map**

Before an application is filed for a building permit, a sketch map at a scale no smaller than 1"=2,000' encompassing the proposed site shall be submitted to the Building Inspector and the Planning Commission for its consideration. Such map shall exhibit the following:

- (a) The approximate boundaries of the site.
- (b) External (public) access streets or roads in relation to site.
- (c) Surrounding development (i.e., general residential, commercial, and industrial areas) within one mile of site.
- (d) Any public water and sewer systems in relation to site.

#### **11-206.9.3      Site Plan**

A site plan at a scale no smaller than 1"=200' also shall be submitted to the Building Inspector. Such site plan shall exhibit the following:

- (a) Topographic contours at five (5) foot intervals, and drainage ways.
- (b) The location and dimensions of proposed internal streets, structures, mobile home spaces, and off-street parking spaces.
- (c) Points of access to public streets.
- (d) The location and size of available water and sewer lines.
- (e) The location and dimensions of any easements.

#### **11-206.9.4      Location**

- (a) The site shall comprise a single lot or tract of land except where divided by public streets.
- (b) The site shall abut a public street.
- (c) Permanent residential structures, other than mobile homes, shall not be located within a site to be developed as a mobile home park.
- (d) Site development may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

#### **11-206.9.5      Public Street Access**

- (a) The minimum distance between access points along public street frontage, center line to center line, shall be two hundred (200) feet.
- (b) The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred (100) feet.

#### **11-206.9.6      Yard Requirements**

- (a) The minimum front yards on a public street shall adhere to the requirements as established in Section 11-206.5.4.
- (b) The minimum side or rear yards on a public street shall be fifteen (15) feet.
- (c) The minimum yards adjoining another zoning district shall be twenty-five (25) feet.

**11-206.9.7      Mobile Home Spacing and Stands**

- (a) The minimum depth of each mobile home space shall be eighty (80) feet.
- (b) The minimum width of each mobile home space shall be forty (40) feet.
- (c) Mobile home stands shall be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against erosion, uplift, sliding, notation and overturning.

**11-206.9.8      Density (Group housing, excluding mobile homes)**

The maximum number of dwelling units per acre of total site shall not exceed sixteen (16).

**11-206.9.9      Internal Streets**

- (a) The minimum right-of-way width of collector streets exceeding five hundred (500) feet in length, or serving more than fifty (50) dwelling units (including mobile homes), shall be sixty (60) feet.
- (b) The minimum right-of-way widths of minor streets shall be fifty (50) feet.
- (c) The maximum grade on any street shall be ten (10) percent.
- (d) Where feasible, all street intersections shall be at right angles.
- (e) Streets shall be privately constructed and maintained.
- (f) The base of streets shall consist of crushed stone or gravel, eight (8) inches in depth compacted.
- (g) The surface of streets shall consist of asphalt or better materials, two (2) inches in depth, compacted.
- (h) The minimum pavement width of collector streets shall be twenty-seven (27) feet.
- (i) The minimum pavement width of minor streets shall be twenty (20) feet.
- (j) Closed ends of dead-end streets shall provide a vehicular turn-around at least one-hundred (100) feet in diameter.

**11-206.9.10      Utilities**

The development shall be serviced with sanitary sewers and public water on trunk lines not less than eight (8) inches and six (6) inches, respectively.

**11-206.9.10      Storage of Waste**

Any central refuse disposal area shall be maintained in such manner as to meet county health requirements, and shall be screened from view.

**11-206.9.11      Service Building**

- (a) Service buildings housing laundry, sanitation or other facilities for use by occupants shall be permanent structures complying with all applicable codes.
- (b) There shall be at least twenty-five (25) feet separating permanent service buildings on the site from any mobile home space.

## **11-207 PROVISIONS GOVERNING C-1 COMMERCIAL DISTRICTS (LOCAL)**

### **11-207.1 Intent**

Commercial C-1 Districts are established on the Municipal Zoning Map strictly for the convenience of shoppers and/or neighboring residents. Within the Commercial C-1 Districts the following regulations shall apply:

### **11-207.2 Uses Permitted**

- 11-207.2.1 Offices, financial institutions, restaurants and professional services.
- 11-207.2.2 Convenience stores such as drug, grocery, hardware and apparel; beauty and barber shops; and similar uses.
- 11-207.2.3 Service stations, automobile sales and service establishments; self-service laundry, car wash, and dry cleaning facilities; and similar uses.
- 11-207.2.4 Manufacturing incidental to retail business or service establishments where products are sold on the premise by producers.
- 11-207.2.5 On-premises advertising in accordance with 11-203.9.3 and certain other signs as permitted in Section 11-203.9.1.
- 11-207.2.6 Accessory uses or structures customarily incidental to the above permitted uses.
- 11-207.2.7 Funeral home, outside storage with screening, and multi-family (area and yard requirements as in R-2). *[Added 5-7-84, Ordinance #122]*
- 11-207.2.8 Uses may be subject to F-1 Floodplain Regulations found in Section 11-219.
- 11-207.2.9 Day Care Facilities for Young Children or Elderly Adults in accordance with specific provisions of 11-215.6.
- 11-207.2.10 Any use permitted in R-1 and R-2 zone.

### **11-207.3 Uses Permitted on Appeal**

- 11-207.3.1 Uses or structures permitted on appeal in Residential R-1 and R-2 Districts that are not specifically permitted in Section 11-207.2.
- 11-207.3.2 Uses subject to written approval of the Smithville Municipal Board of Zoning Appeals, and subject to such conditions as the Municipal Board of Zoning

Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

- 11-207.3.3 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.
- 11-207.3.4 Residential Care Home for Aged in accordance with specific provisions of 11-213.5.
- 11-207.3.5 Accessory structures for single-family residences. Accessory structures must meet the requirements outlined in Section 11-205.4.6 for an R-1 Low Density Residential District.

#### **11-207.4 Uses Prohibited**

- 11-207.4.1 Industrial uses.
- 11-207.4.2 Warehousing above ground, except those uses within and incidental to a permitted business or service structure.
- 11-207.4.3 Storage above ground consisting of inflammable liquids in excess of one thousand (1,000) gallons.
- 11-207.4.4 Storage of explosives.
- 11-207.4.5 Truck terminals, junkyards, specialized recreation facilities.
- 11-207.4.6 Uses not specifically permitted, permitted on appeal, or permitted by implication are prohibited.
- 11-207.4.7 Off-premises signs and other signs as prohibited in Section 11-203.9.2.

#### **11-207.5 Yard Requirements**

- 11-207.5.1 All principal and accessory structures shall be set back from the right-of-way lines of streets the maximum distance shown below, according to their classifications as indicated on the latest official municipal thoroughfare plan:

Arterial Streets	50 feet
Collector Streets	40 feet
Minor Streets	30 feet

- 11-207.5.2 On corner lots, all principal and accessory structures shall conform to the setback requirements for the adjoining street with the highest classification.
- 11.207.5.3 Side yard setback = 5 feet
- 11-207.5.4 Rear yard setback = 10 feet

11-207.5.5 Single and Multi-family residential uses shall meet lot area and yard requirements as in R-2.

11-207.5.6 Canopy over gasoline pumps, minimum 10 feet off right-of-way or property line.

## **11-208 PROVISIONS GOVERNING C-2 COMMERCIAL DISTRICTS (CENTRAL BUSINESS DISTRICT)**

### **11-208.1 Uses Permitted**

11-208.1.1 Any retail or wholesale business or service use, except as specifically indicated or implied below under Uses Prohibited.

11-208.1.2 Manufacturing incidental to retail business or service establishments where products are sold on the premise by producers.

11-208.1.3 Printing and publishing establishments.

11-208.1.4 On-premises advertising in accordance with Section 11-203.9.3 and other signs as permitted in Section 11-203.9.

11-208.1.5 Accessory uses of structures customarily incidental to the above permitted uses.

11-208.1.6 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

11-208.1.7 Any use permitted in R-1, R-2 and C-1 zones with the exception of mobile homes.

### **11-208.2 Uses Permitted on Appeal**

11-208.2.1 Any use permitted upon appeal in the R-1, R-2 and C-1 districts not specifically permitted in Section 11-208.1

11-208.2.2 Uses subject to written approval of the Smithville Municipal Board of Zoning Appeals, and subject to such conditions as the Municipal Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

11-208.2.3 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

### **11-208.3 Uses Prohibited**

11-208.3.1 Industrial uses.

- 11-208.3.2 Warehousing and storage, except those uses within and incidental to a permitted business or service structure.
- 11-208.3.4 Cemetery.
- 11-208.3.5 Traffic and/or noise generating uses not dependent upon a central location such as truck terminals, service stations, and funeral homes.
- 11-208.3.6 Junkyards.
- 11-208.3.7 Storage above ground consisting of inflammable liquids in excess of one thousand (1,000) gallons.
- 11-208.3.8 Uses not specifically permitted, permitted on appeal, or permitted by implication are considered prohibited.
- 11-208.3.9 Off-premise signs and other signs as prohibited in Section 11-203.9.2.

#### **11-208.4 Yards**

- 11-208.4.1 On lots adjacent to residential districts, all buildings shall be located to conform to the side yard requirements for the adjacent residential districts.
- 11-208.4.2 Canopy over gasoline pumps minimum 10 feet off right-of-way or property line.

#### **11-208.5 Height**

- 11-208.5.1 Buildings shall not exceed six (6) stories nor seventy-five (75) feet in height.
- 11-208.5.2 Subject to off-street parking requirements in Section 11-203.7

### **11-209 PROVISIONS GOVERNING C-3 COMMERCIAL DISTRICTS (GENERAL COMMERCIAL)**

#### **11-209.1 Uses Permitted**

- 11-209.1.1 Any use permitted in R-1, R-2, C-1 and C-2 Districts, including service stations, funeral homes, offices and financial institutions.
- 11-209.1.2 Auto sales; packaged feed and seed stores; furniture and appliance stores; auto garage and repair shops; motels, restaurants; warehousing and storage uses.
- 11-209.1.3 Specialized recreation facilities such as billiard halls, skating rinks, bowling alleys, miniature golf courses, theaters, horse show arenas, stadiums, and similar uses.
- 11-203.1.4 On-premises advertising in accordance with Section 11-203.9.3 and other signs as permitted in Section 11-203.9.
- 11-209.1.5 Accessory uses or structures customarily incidental to the above permitted uses.



- 11-209.1.6 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.

**11-209.2 Uses Permitted on Appeal**

- 11-209.2.1 Same as for C-2 District, except, major warehousing and storage uses.
- 11-209.2.2 Uses subject to written approval of the Smithville Municipal Board of Zoning Appeals, and subject to such conditions (normally involving the possible prevention of traffic, parking, health, and aesthetic problems) as the Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.
- 11-209.2.3 Uses may be subject of F-1 Floodplain Regulations found in Section 11-217 and 11-218.
- 11-209.2.4 Residential Care Home for Aged in accordance with specific provisions of 11-213.5.
- 11-209.2.5 Day Care Facilities for Young Children or Elderly Adults in accordance with specific provisions of 11-213.6.

**11-209.3 Uses Prohibited**

- 11-209.3.1 Industrial uses.
- 11-209.3.2 Storage above ground consisting of inflammable liquids in excess of one-thousand (1,000) gallons.
- 11-209.3.3 Storage of explosives.
- 11-209.3.4 Truck terminals.
- 11-209.3.5 Junkyards.
- 11-209.3.6 Uses not specifically permitted, permitted on appeal or permitted by implication are considered prohibited.
- 11-209.3.7 Off-premise signs and other signs as prohibited in Section 11-203.9.2.

**11-209.4 Yards**

**11-209.5 Front**

- 11-209.5.1 Lots shall be considered fronting on either arterial or collector streets. All principal and accessory structures shall be set back from the right-of-way lines of streets the maximum distance shown below, according to their classifications as indicated on the latest official thoroughfare plan:

Arterial Streets	50 feet
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Collector Streets	40 feet
Minor Streets	30 feet

**11-209.6      Side**

- 11-209.6.1      Interior side yard setback of 5 feet. On the street side of a corner lot, the side yard requirement is fifteen (15) feet
- 11-209.6.2      Rear setback of 10 feet.
- 11-209.6.3      Canopy over gasoline pumps minimum 10 feet off right-of-way or property line.
- 11-209.6.4      Multi-family residential shall meet lot area and yard requirements as in R-2.
- 11-209.6.5      Off street parking is subject to requirements established in Section 11-203.7 And off-street loading shall be provided according to the specific use of the structure.
- 11-209.6.6      Buildings shall not exceed maximum height of three (3) stories or 35 feet.

**11-210 PROVISIONS GOVERNING I-1 INDUSTRIAL DISTRICTS (LIGHT)**

**11-210.1      Uses Permitted**

- 11-210.1.1      Industrial uses, such as the manufacture of textiles and apparel; fabrication and assembly of machinery and other products of metal, wood, or other materials; and similar uses.
- 11-210.1.2      Wholesaling, warehousing, and storage uses; heavy commercial uses; truck terminals.
- 11-210.1.3      Accessory uses or structures customarily incidental to the above permitted uses.
- 11-210.1.4      Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 11-218.
- 11-210.1.5      On-premises advertising in accordance with Section 11-203.9.3 and other signs as permitted in Section 11-203.9.1.
- 11-210.1.6      Day Care Facilities for Young Children or Elderly Adults in accordance with specific provisions of 11-213.6.
- 11-210.1.7      Any use permitted in the R-1, R-2, C-1, C-2 and C-3 zoning districts.

**11-210.2      Uses Permitted on Appeal**

11-210.2.1 Public and semi-public uses except educational, cultural, medical, and recreational facilities.

11-210.2.2 Uses subject to written approval of the Smithville Municipal Board of Zoning Appeals, and subject to such conditions as the Municipal Board of Zoning appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

### **11-210.3 Uses Prohibited**

11-210.3.1 Junkyards and similar uses.

11-210.3.2 Industrial uses considered dangerous or unsafe, such as the manufacture of explosives; industrial uses considered noxious, but not dangerous, by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter, or water-carried waste; and uses considered objectionable due to adverse effect on adjoining uses, such as junkyards.

11-210.3.3 Off-premises advertising and other signs as prohibited in Section 11-203.9.2.

### **11-210.4 Yard Requirements**

11-210.4.1 All principal and accessory structures shall be set back from the right-of-way line of streets the maximum distance shown below, according to their classifications as indicated on the latest official thoroughfare plan:

Arterial Streets	50 feet
Collector Streets	40 feet
Local Streets	30 feet

11-210.4.2 On corner lots, all principal and accessory structures shall conform to the setback requirements for the adjoining street with the highest classification.

11-210.4.3 The minimum side or rear yards for properties which adjoin non-industrial districts shall be thirty-five (35) feet.

## **11-211 PROVISIONS GOVERNING I-2 INDUSTRIAL DISTRICTS (HEAVY)**

### **11-211.1 Uses Permitted**

11-211.1.1 Uses permitted in R-1, R-2, C-1, C-2, C-3 and I-1 Districts.

11-211.1.2 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 218.

### **11-211.2 Uses Permitted on Appeal**

- 11-211.2.1 Uses considered noxious, but not dangerous, such as fat rendering, inflammable liquids storage, slaughter houses, junkyards, stockyards, smelting plants, and manufacturing of acids; public uses; and similar uses.
- 11-211.2.2 Uses subject to written approval of the Smithville Municipal Board of Zoning Appeals and subject to such conditions as the Municipal Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located.
- 11-211.2.3 Uses may be subject to F-1 Floodplain Regulations found in Section 11-217 and 218.
- 11-211.3 Uses Prohibited**
- 11-211.3.1 Off-premises advertising and other signs as prohibited in Section 11-203.9.2.
- 11-211.4 Yards**
- 11-211.4.1 All principal and accessory structures shall be set back from the right-of-way line of streets the maximum distance shown below, according to their classifications as indicated on the latest official thoroughfare plan:
- |                   |         |
|-------------------|---------|
| Arterial Streets  | 50 feet |
| Collector Streets | 40 feet |
- 11-211.4.2 On corner lots, all principal and accessory structures shall conform to the setback requirements for the adjoining street with the highest classification.
- 11-211.4.3 The minimum side yards and rear yards shall be twenty (20) feet and twenty-five (25) feet, respectively.
- 11-211.4.4 The minimum yard adjoining non-industrial districts shall be thirty-five (35) feet.

## **11-212 EXCEPTIONS AND MODIFICATIONS**

### **11-212.1 Front Yards**

The front yard requirements of this Ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots located within two hundred (200) feet of each side of such lot and within the same block and zoning district and fronting on the same streets as such lot is less than the minimum required front yard depth. In such case the minimum front yard shall be the average of the existing front yard depths on the developed lots.

### **11-212.2 Lot of Record**

11-212.2.1 Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this Ordinance, an application may be submitted to the Municipal Board of Zoning Appeals for a variance from the terms of this Ordinance, in accordance with Section 11-217. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely as possible, in the opinion of the Municipal Board of Zoning Appeals.

11-212.2.2 No lot shall be so reduced in area that the yards and open space will be smaller than prescribed by this Ordinance; and no yard, court, or open space provided around any building for the purpose of complying with these provisions shall again be considered as a yard, court, or other open space for another building.

**11-212.3 Adjoining Substandard Lots of Record**

Where two (2) or more substandard lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a large tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

11-212.4 The **height limitations** of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, silos, smoke stacks, derricks, conveyors, flag poles, radio towers, masts, aerials, and the like.

**11-212.5 Specific Requirements for Residential Care Home for Aged**

11-212.5.1 Definition: A home which accepts aged person for relatively permanent, domiciliary care, providing room, board and personal services to one or more nonrelated persons, and is licensed by the State of Tennessee. Domiciliary care shall include a furnished room, bath facilities, and acceptable meal service, linen service, periodic observation and appropriate personal assistance when requested or needed, but does not provide nursing services.

**11-212.5.2 Criteria for Review and Approval for Conversion of Existing Structures:**

- (a) Minimum ½ acre
- (b) If any part of existing building or proposed additions are less than 25 feet from a property line with adjoining residential structure, there must be installed a privacy (opaque) fence. Use of double-row landscape plantings or non-opaque fencing along all other side or rear property lines.
- (c) Off-street parking spaces = 1 space per bed, in order to provide sufficient parking for delivery vehicles, emergency vehicles, visitors, employees, etc.
- (d) Structure, renovations and additions to meet Standard Building Code and Plumbing Code, and hooked to city utilities.

- (e) Submit detailed site plan of property, location of existing structure and additions proposed, showing parking, driveways, floor plan, emergency exits, distance from property lines, all adjoining properties, distances to adjoining residences.
- (f) Licensed by State as Residential Care Home for Aged.
- (g) Inspection and approval by local fire chief.

**11-212.5.3 Criteria for Review and Approval for Construction of New Structure:**

- (a) Minimum 1 acre.
- (b) Building minimum side and rear setbacks of 35 feet.
- (c) Use of double-row landscape plantings or fencing along all property lines. Opaque fencing may be required by BZA if necessary.
- (d) Off-street parking spaces = 1 space per bed, in order to provide sufficient parking for delivery vehicles, emergency vehicles, visitors, employees, etc.
- (e) Structure to meet Standard Building Code and Plumbing Code, and be hooked to city utilities.
- (f) Submit detailed site plan of property, showing parking, driveways, floor plan, emergency exits, distance from property lines, all adjoining properties, distances to adjoining residences.
- (g) Licensed by State as Residential Care Home for Aged.
- (h) Inspection and approval by local fire chief.

**11-212.6 Specific Requirements for Day Care Facilities for Young Children or the Elderly**

**11-212.6.1 As Home Occupation/Accessory Use in a Residence**

- (a) Such facility is an accessory use to principal use of the structure as the residence of the owner/operator of day care, and is a "home occupation."
- (b) For care of children, it is licensed by State Department of Human services as Family Day Care or Group Day Care.
- (c) Primary facility should be located within the dwelling, but under special circumstances may be permitted in accessory building, such as a remodeled garage located in rear yard.
- (d) Following information presented to Planning Commission for review and approval:

Site Plan drawn to scale showing dwelling and various features of property, location of fenced play areas, parking and loading areas, distances to adjoining dwellings, adjoining property owners' names, and other necessary information.

Off-street parking and loading plan showing driveways and parking spaces of 2 for household use plus 1 per employee plus spaces equal to half maximum capacity of day care facility plus space for any van or bus operated by the day care facility.

Statements from adjoining property owners that they have been notified of proposed use.

- (e) Maximum 2 employees not residents of dwelling.

- (f) Sign maximum 3 sq. ft. in size.
- (g) Obtain annual city business license.
- (h) Register facility and use with E-911 director and all emergency services.
- (i) File floor plan with Fire Department and Ambulance Services.
- (j) Annual inspection by City Building Inspector.

#### **11-212.6.2      As Accessory Use in a Church (or School, Community Center)**

- (a) For care of children, the facility is licensed by State Department of Human Services as group day care or child care center.
- (b) Register facility and use with E-911 director and all emergency services.
- (c) File floor plan with Fire Department and Ambulance Services.
- (d) Off-street parking and loading plan reviewed and approved by Planning Commission, showing off-street parking spaces sufficient for employees and parents, as well as for any van or bus used for the day care facility.
- (e) Sign maximum 3 sq. ft. in size.
- (f) Obtain annual city business license.

#### **11-212.6.3      As Principal Use of a Structure or Lot**

- (a) For care of children, facility and operation is licensed by State Department of Human Services as Group Day Care or Child Care Center.
- (b) Building is located on a “collector” or “arterial” street in any zoning district, OR on “minor” street in industrial district OR if on a “minor” street in a residential district, property must be within 350 feet of a collector or arterial.
- (c) Minimum lot size in any residential district--- 30,000 sq. ft.
- (d) Following information presented to Planning Commission for review and approval:

Site plan drawn to scale showing structure and various features of property, location of fenced play areas, parking and loading areas, adjoining property owners’ names, distances to adjoining structures and any other necessary information.

Off-street parking and loading plan showing driveways and parking spaces of 1 per employee plus spaces equal to half maximum capacity of day care facility plus space for any van or bus operated by the day care facility.

Statements from adjoining property owners that they have been notified of proposed use.

- (e) Sign in any residential district maximum 3 sq. ft.
- (f) Obtain annual city business license.
- (g) Register facility and use with E-911 director and all emergency services.
- (h) Also file floor plan with Fire Department and Ambulance Services.
- (i) Annual inspection by City Building Inspector.

#### **11-212.7      Gasoline Service Stations**

The following regulations shall apply to all gasoline service stations:

1. All buildings shall comply with all required setbacks in the applicable zoning district.
2. All gasoline pumps and canopies shall not be located closer than twenty (20) feet to any street right-of-way line.
3. When other uses are combined with a gasoline service station, such as video rental, deli, or grocery, additional parking, based on the other uses, shall be provided.

#### **11-212.8 Cemeteries**

The following regulations shall apply to all cemeteries:

1. The site proposed for a cemetery shall not interfere with the development of a system of streets and in addition shall have direct access to a thoroughfare.
2. Any new cemetery shall be located on a site containing not less than ten (10) acres.
3. All structures and facilities including but not limited to mausoleums, graves, burial lots, monuments, and maintenance buildings shall be set back at least thirty (30) feet from any property line or street right-of-way.
4. All required yards shall be landscaped and maintained.
5. Proposals for cemeteries shall be approved by the planning commission.

#### **11-212.9 Customary Home Occupations**

The following regulations shall apply for all permitted customary home occupations:

1. A customary home occupation is a gainful occupation or profession conducted by members of a family residing full-time on the premises and conducted entirely within the principal dwelling unit.
2. No more than fifty (50) percent of the total habitable floor area of the dwelling shall be devoted to such use.
3. Shall be conducted entirely within the principal dwelling unit and no alterations to any buildings shall indicate from the exterior that the building is being utilized for any purpose other than a residential unit, including permitted accessory buildings.
4. No stock in trade shall be displayed and no equipment or materials used in the occupation shall be stored outside the dwelling.
5. Only one (1) person, not a resident of the premises, shall be employed.
6. No outdoor repair work shall be permitted.
7. Additional off-street parking shall be provided for the non-resident employee and for the parking of anticipated clients. Required parking shall not be permitted in any front yard.
8. Special approval shall not be transferable to another owner.

#### **11-212.10 Swimming Pools**

The following regulations shall apply to all private swimming pools:



1. No swimming pool or part thereof, including aprons, walks, and equipment rooms, shall protrude into any required front or side open space.
2. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall not be less than five (5) feet in height and maintained in good condition.

#### 11-212.11 **Self-Service Storage Facilities (Mini-Warehouses)**

The following regulations shall apply to all self-service storage facilities:

1. Parking shall be provided by parking/driving lanes adjacent to the storage buildings. These lanes shall be at least twenty-six (26) feet wide when storage cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane. Said lane shall be surfaced with asphalt or concrete.
2. A minimum of two (2) parking spaces plus one (1) additional space for every two-hundred (200) storage cubicles shall be located adjacent to the project office.
3. No self-service storage facility shall exceed eighteen (18) feet in height.
4. The establishment of a business in a self-storage unit(s) for the sale or auction of any item is specifically prohibited.
5. The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is specifically prohibited and all rental contracts shall include clauses prohibiting such storage.
6. The servicing or repair of motor vehicles, boats, trailers, lawn mowers or any similar equipment is specifically prohibited.

#### 11-212.12 **Servicing, Storage, Repair or Sales of Motor Vehicles**

The following regulations shall apply to all motor vehicles (see definition in Article II), garages, sales lots, service stations, and similar structures and uses involved in the servicing, storage, repair or sales of motor vehicles:

1. No public street, parking area, sidewalk, or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles.
2. No operation in connection with such establishments shall be carried on in such a manner which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.
3. No motor vehicle shall be parked in such a manner as to block visibility at intersecting streets.
4. No repair of motor vehicles or parts thereof shall be made outside of garages, service stations, body shops, or other buildings used for such purposes (except such minor repairs as are normally completed while the customer waits at the premises).

5. All motor vehicles being handled or stored in an area visible from a public street or way shall be maintained in such condition that they can be moved under their own power.
6. Motor vehicles unable to be moved under their own power may be temporarily stored (sixty (60) days or less) in completely enclosed storage yards. These yards shall be provided with opaque screening as provided in Article VI, Section 1 of this Official Zoning Code in such a manner that no vehicle or portion thereof is visible from any street or public way, or from ground level of any adjacent property. The storage yard shall be located on the same premises as the motor vehicle repair or service establishment, and it shall be paved with asphalt or concrete. The maximum number of vehicles allowed in any storage yard is ten (10).
7. It shall be the responsibility of the owner or operator of any motor vehicle repair or service establishment to keep accurate and verifiable records as to the date any vehicle being stored in a storage yard is placed on said yard. Failure to keep such records will create the presumption that the vehicle or vehicles stored on the yard have been there in excess of sixty (60) days and are in violation of this Official Zoning Code.
8. Businesses that are non-conforming upon the adoption of these provisions shall comply with Section 11-203.1, Continuance of Non-Conforming Uses and/or Structures.

11-212.13

### **Churches and Other Places of Worship**

The following regulations shall apply to all permitted churches and other places of worship:

1. A minimum lot area of two (2) acres with a minimum lot width of two-hundred (200) feet at the building setback line shall be provided.
2. The minimum depth of the front yard shall be seventy-five (75) feet, and the minimum depth of the side and rear yards shall be fifty (50) feet. The minimum side yard on street side of corner lots shall be seventy-five (75) feet.
3. The maximum lot coverage for the principal structure and all accessory structures shall be thirty (30) percent.
4. When parking areas are adjacent to residential lots, buffer strips of ten (10) feet in width along all shared lot lines shall be provided.
5. Road access shall be, at a minimum, off a collector street as defined by the Smithville Major Road Plan.

11-212.14

### **Schools**

The following regulations shall apply to all permitted schools offering general education courses:

1. A minimum lot area of five (5) acres with a minimum lot width of three-hundred (300) feet at the building setback line shall be provided.
2. The minimum depth of the front, rear, side yards and side yards on street side of corner lots shall be one-hundred (100) feet.

3. The maximum lot coverage for all buildings shall be thirty (30) percent.
4. All accessory structures and portable classrooms shall be located in the rear yard only. Portable classrooms shall be temporary in nature and subject to annual review by the Board of Zoning Appeals.
5. When parking areas are adjacent to residential lots, buffer strips ten (10) feet in width shall be provided along all shared lot lines.

#### 11-212.15 **Multi-family Residences**

1. Minimum lot area of 18,000 sq. ft. for first two (2) units plus an additional 4,000 sq. ft. per dwelling unit. Dwelling units per structure shall not exceed eight (8). All other lot and yard requirements are the same as within the R-2 zoning district.
2. The structure(s) shall be connected to city water with 6 inch lines and connected to city sewer with 8 inch lines.
3. The owner of the structure shall provide adequate supervision to maintain the structure, the yards, and the accessory equipment in a safe, sanitary, aesthetically pleasing condition.
4. A refuse disposal area and storage containers shall be provided and maintained in such manner as to meet local health requirements, and shall be screened from view.
5. Minimum of two (2) off-street parking spaces per apartment unit, paved with hard surfacing.

### 11-213 ENFORCEMENT

#### 11-213.1 **Enforcing Officer**

The provisions of this Ordinance shall be administered and enforced by a Building Inspector appointed by the Smithville Mayor and approved by the Board of Mayor and Aldermen, and he shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

#### 11-213.2 **Building Permit**

##### 11-213.2.1 **Building Permit Required**

It shall be unlawful to commence excavation for the construction of any building including accessory buildings but excluding agricultural structures, or to commence the moving or alteration of any building including accessory buildings, until the Building Inspector has issued a building permit for such work.

##### 11-213.2.2 **Issuance of a Building Permit**

Building permits applications for non-residential uses shall be submitted to the Planning Commission for approval. In applying to the Building Inspector for a building permit the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, and location of all buildings to be erected, altered, or

moved and of any buildings already on the lot. The applicant shall also state the existing and intended use of all such buildings and supply such other information as may be required by the Building Inspector for determining whether the provisions of this Ordinance are being observed. The applicant, when necessary, will provide an explanation of how storm water management is being addressed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance and other ordinances of the Town of Smithville then in force, the Building Inspector shall issue a building permit for such excavation and/or construction. If a building permit is refused the Building Inspector shall state such refusal in writing with the cause.

- (a) The issuance of a building permit shall in no case be construed as waiving any provision of this Ordinance.
- (b) A building shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

#### **11-213.3      Issuance of Certificate of Occupancy**

No land or building or part thereof hereafter erected or altered in its use of structure shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this Ordinance.

Within three (3) dates after notification that a building or premise or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof are found to conform with the provisions of this Ordinance; or, if such certificate is refused, the Building Inspector shall state refusal in writing with the cause.

#### **11-213.4      Records**

A complete record of such applications, sketches, and plans shall be maintained in the office of the Building Inspector, based on whole or in part upon the provisions of this Ordinance.

#### **11-213.5      Penalties**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than two (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense; payment of fine shall not constitute compliance.

#### **11-213.6      Remedies**

In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the Building Inspector or any other appropriate authority or

any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure, or land.

## **11-214 BOARD OF ZONING APPEALS**

### **11-214.1 Creation and Appointment**

A Smithville Municipal Board of Zoning Appeals is hereby established in accordance with Section 13-7-205 through 13-5-207 of the *Tennessee Code Annotated*.

The five (5) member Board of Zoning Appeals will be appointed by the Mayor and Board of Aldermen.

### **11-214.2 Procedure**

Meetings of the Smithville Municipal Board of Zoning Appeals (hereafter referred to as the Board) shall be held at the call of the Chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

The Board shall keep Minutes of its proceedings, showing the vote of each member upon each question; or if absent, or failing to vote, the Board shall explain its actions. The Minutes shall be immediately filed in the office of the Board and shall be a public record.

### **11-214.3 Appeals, How Taken**

An appeal to the Board may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, other board, or bureau affected by any decision of the Building Inspector based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Board a Notice of Appeal, specifying the grounds thereof.

The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appeal was taken. The Board shall fix a reasonable time for the hearing of the appeal; give proper notice of a Public Hearing before the Board by publishing such notice in a newspaper of general circulation in the City of Smithville, Tennessee, at least five (5) days prior to the date set for the Public Hearing; provide written notice to the parties of interest, mailed five (5) days prior to the date set for the Hearing; and decide same within a reasonable time. At the Hearing, any person or party may appear and be heard in person, by agent, or by attorney.

### **11-214.4 Powers**

#### **11-214.4.1 Administrative Review**

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, implication, determination, or refusal made by the Building Inspector or other administrative official in the carrying out

or enforcement of any provision of this Ordinance; and to interpret the zoning map and Ordinance.

#### **11-214.4.2      Special Exceptions (Uses Permitted Upon Appeal)**

The Board of Zoning Appeals may hear and decide only such special exceptions as it is specifically authorized to pass on by the terms of the "*Uses Permitted on Appeals*" sections of each district; and to grant special exceptions with such conditions and safeguards as are appropriate or to deny special exceptions when not in harmony with the purpose and intent of the specific district. A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

#### **11-214.4.3      Variances**

To hear and decide applications for variances from the terms of this Ordinance, but shall grant variances only where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property which at the time of adoption of this Ordinance was a lot of record, or where by reason of exceptional topographic situations or conditions of a piece of property the strict practical difficulties or to undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Ordinance.

- (a) In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance.
- (b) Before any variance is granted, it shall be shown that special circumstances attached to the property do not generally apply to other properties in the neighborhood.

11-214.5      A **fee** of fifty dollars (\$50.00) shall be posed with the Building Inspector with each appeal to the Board; said fee is to defray costs of notices, the hearing, and any other miscellaneous expenses.

#### **11-214.6      Conflict of Interest**

Any member of the Smithville Board of Zoning Appeals who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

## **11-215 AMENDMENTS**

### **11-215.1      Introduction of Amendments**

The Board of Mayor and Aldermen of the City of Smithville (hereafter referred to as the City Board) may amend the regulations, restriction, boundaries, or any provision of this Ordinance. Any member of the City Board may introduce such amendment, or any official, board, or any other person may present a petition to the City Board requesting an amendment or amendments to this Ordinance.

### **11-215.2      Review by the Planning Commission**

No amendment shall become effective unless it is first submitted for approval, disapproval, or suggestions to the Municipal Planning Commission.

If the Planning Commission, within sixty (60) days of such submission, disapproves the amendment it shall require the favorable vote of a majority of the entire membership of the City Board to become effective. Failure of the Planning Commission to either approve or disapprove the amendment within ninety (90) days of its submission shall be deemed approval.

### **11-215.3      Notice of Public Hearing**

Upon the introduction of an amendment to this Ordinance, or upon the receipt of a petition to amend this Ordinance, the City Board shall publish a notice of such request for an amendment together with the notice of time set for a Public Hearing by the City Board on the requested change. Said notice shall be published one time in a newspaper of general circulation in the City of Smithville, Tennessee. Said hearing by the Board of Mayor and Aldermen shall take place not sooner than fifteen (15) days after the publication of such notice.

At the time and place signified in the above notice, the City Board shall meet; and all persons affected by such amendment or change may appear in person, by agent, or by attorney to petition against the making of such amendment.

### **11-215.4      Fee**

A fee of fifty dollars (\$50.00) due and payable at the time of filing of petition shall be posted with request to amend the Zoning Ordinance; said fee to be used by the City of Smithville to defray costs resulting from such petition and any subsequent amendment of the Zoning Ordinance.

## **11-216 PROVISIONS GOVERNING F-1 FLOODPLAIN DISTRICTS (OVERLAY)**

This district is created to enable the City of Smithville to participate in the National Flood Insurance Program administered by the Federal Emergency Management Agency. The rules and regulations contained herein pertain to and are applicable only in the areas identified on the "FIRM - Flood Insurance Rate Maps" published by this agency.

### **11-216.1      Statutory Authorization**

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, *Tennessee Code Annotated* delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

### **11-216.2      Findings of Fact**

- 11-216.2.1      The Board of Mayor and Aldermen of Smithville wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(b) of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-88 Edition) and subsequent amendments.
- 11-216.2.2      Areas of Smithville 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.
- 11-216.2.3      These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; and by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

### **11-216.3      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:

- 11-216.3.1      Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;
- 11-216.3.2      Require that uses vulnerable to floods, including community facilities, be protected against flood damage;
- 11-216.3.3      Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;
- 11-216.3.4      Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- 11-216.3.5      Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.

### **11-216.4      Objectives**

The objectives of this Chapter are:

- 11-216.4.1      To protect human life and health;
- 11-216.4.2      To minimize expenditure of public funds for costly flood control projects;



- 11-216.4.3 To minimize the need for rescue and relief efforts associated with flooding;
- 11-216.4.4 To minimize prolonged business interruptions;
- 11-216.4.5 To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;
- 11-216.4.6 To help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- 11-216.4.7 To ensure that potential buyers are notified that property is in a floodable area; and,
- 11-216.4.8 To establish eligibility for participation in the National Flood Insurance Program.

## **11-216.5 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.

- 11-216.5.1 "Accessory Structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:
  - (a) Accessory structures shall not be used for human habitation.
  - (b) Accessory structures shall be designed to have low flood damage potential.
  - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - (d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
- 11-216.5.2 "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.
- 11-216.5.3 "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.
- 11-216.5.4 "Appeal" means a request for a review of the Building Inspector's interpretation of any provision of this Chapter or a request for a variance.
- 11-216.5.5 "Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 11-216.5.6 "Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
- 11-216.5.7 "Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent 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.

- 11-216.5.8 "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- 11-216.5.9 "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.
- 11-216.5.10 "Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- 11-216.5.11 "Building", for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure")
- 11-216.5.12 "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 11-216.5.13 "Elevated Building" means a non-basement building (a) built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
- 11-216.5.14 "Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
- 11-216.5.15 "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.
- 11-216.5.16 "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.
- 11-216.5.17 "Existing Construction" any structure for which the "start of construction" commenced before the effective date of this Chapter.
- 11-216.5.18 "Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Chapter.
- 11-216.5.19 "Existing Structures" see "Existing Construction"
- 11-216.5.20 "Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 11-216.5.21 "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland or tidal waters; and/or (b) the unusual and rapid accumulation or runoff of surface waters from any source.
- 11-216.5.22 "Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
- 11-216.5.23 "Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination,

- evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- 11-216.5.24 "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.
- 11-216.5.25 "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- 11-216.5.26 "Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Map and the water surface elevation of the base flood.
- 11-216.5.27 "Floodplain" or "Flood-Prone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- 11-216.5.28 "Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- 11-216.5.29 "Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- 11-216.5.30 "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 11-216.5.31 "Flood-Related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
- 11-216.5.32 "Flood-Related Erosion Area" or "Flood-Related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- 11-216.5.33 "Flood-Related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.
- 11-216.5.34 "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- 11-216.5.35 "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- 11-216.5.36 "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many

unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

- 11-216.5.37 "Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- 11-216.5.38 "Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- 11-216.5.39 "Historic Structure" means any structure that is:
- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (1) By an approved state program as determined by the Secretary of the Interior, or
    - (2) Directly by the Secretary of the Interior in states without approved programs.
- 11-216.5.40 "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- 11-216.5.41 "Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- 11-216.5.42 "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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.
- 11-216.5.43 "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".
- 11-216.5.44 "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 11-216.5.45 "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.
- 11-216.5.46 "Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD)

or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

- 11-216.5.47 "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- 11-216.5.48 "New Construction" any structure for which the "start of construction" commenced on or after the effective date of this Chapter. The term also includes any subsequent improvements to such structure.
- 11-216.5.49 "New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Chapter.
- 11-216.5.50 "100-year Flood" see "Base Flood".
- 11-216.5.51 "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.
- 11-216.5.52 "Recreational Vehicle" means a vehicle which is:
  - (a) built on a single chassis;
  - (b) 400 square feet or less when measured at the largest horizontal projections;
  - (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.
- 11-216.5.53 "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.
- 11-216.5.54 "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- 11-216.5.55 "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.
- 11-216.5.56 "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 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; or the placement of a manufactured home on a foundation. Permanent construction does not include 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.
- 11-216.5.57 "State Coordinating Agency" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the Governor of the State or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

- 11-216.5.58 "Structure". for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- 11-216.5.59 "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 50 percent of the market value of the structure before the damage occurred.
- 11-216.5.60 "Substantial Improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- 11-216.5.61 "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 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- 11-216.5.62 "Variance" is a grant of relief from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship.
- 11-216.5.63 "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 Chapter is presumed to be in violation until such time as that documentation is provided.
- 11-216.5.64 "Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

## **11-216.6      GENERAL PROVISIONS**

### **11-216.6.1      Application**

This Chapter shall apply to all areas within the incorporated area of Smithville, Tennessee.

### **11-216.6.2      Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified on the Smithville, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community - Panel Numbers 47041C0177C, 47041C0179C, 47041C0180C, 47041C0183C, 47041C0185C, 47041C0200C, dated April 19, 2010, and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this Chapter. These areas shall be incorporated into the Smithville Zoning Map.

### **11-216.6.3      Requirement for Development Permit**

A development permit shall be required in conformity with this Chapter prior to the commencement of any development activity.

### **11-216.6.4      Compliance**

No 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.

### **11-216.6.5      Abrogation and Greater Restrictions**

This Chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Chapter conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.

### **11-216.6.6      Interpretation**

In the interpretation and application of this Chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

### **11-216.6.7      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 flood hazard areas 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 Smithville, 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.

### **11-216.6.8      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 or special exceptions, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Smithville, Tennessee from taking such other lawful actions to prevent or remedy any violation.

#### **11-216.6.9     Validity**

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

### **11-216.7     ADMINISTRATION**

#### **11-216.7.1     Designation of Building Inspector**

The Building Inspector is hereby appointed to administer and implement the provisions of this Ordinance.

#### **11-216.7.2     Permit Procedures**

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

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings.
- (b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where base flood elevation data is available.
- (c) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria as described herein.
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (e) During construction stage after the lowest floor is completed within unnumbered A zones, where flood elevation data are not available, the Building Inspector shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.
- (f) Within all flood zones where base flood elevation data are utilized, the Building Inspector shall require that upon placement of the lowest floor, or flood-proofing



by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspector a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Building Inspector shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

### **11-216.7.3      Duties and Responsibilities of the Building Inspector**

Duties of the Building Inspector shall include, but not be limited to:

- (a) Review of all development permits to assure that the requirements of this Chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.
- (b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
- (c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
- (d) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, as described in Section 11-218.7.2 above.
- (e) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, as described in Section 11-219.7.2 above.
- (f) When flood-proofing is utilized, the Building Inspector shall obtain certification from a registered professional engineer or architect, as described in Section 11-218.7.2 above.
- (g) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Inspector shall make the necessary interpretation.
- (h) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction,

substantial improvements, or other development in Zone A on the Community FHBM or FIRM meet the requirements of this Chapter.

- (i) Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Building Inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least (2) two feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Sections 11-217.5.38 and 11-217.5.42). All applicable data including the highest adjacent grade elevation and the elevations of the lowest floor of flood-proofing shall be recorded on the building/development permit as described in Section 11-218.7.2.
- (j) In addition, where small streams exist but where no base flood data or no floodway has been provided, no encroachments, including fill material or structures shall be located within a distance of the stream bank equal to two (2) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (k) All records pertaining to the provisions of this Chapter shall be maintained in the Building Inspector's Office 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.
- (l) Assure that the flood carrying capacity within an altered or relocated portion of any water course is maintained.

#### **11-216.8      General Standards for Flood Hazard Reduction**

In all flood prone areas the following provisions are required:

- 11-216.8.1      New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 11-216.8.2      Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- 11-216.8.3      New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 11-216.8.4      New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 11-216.8.5      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;
- 11-216.8.6      New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- 11-216.8.7 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;
- 11-216.8.8 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 11-216.8.9 Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Chapter; and,
- 11-216.8.10 Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not extended.

#### **11-216.9      Standards For Unmapped Streams**

Located within Smithville, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:

- 11-216.9.1 In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream along each side of the stream, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the locality.
- 11-216.9.2 When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with this Chapter.

#### **11-216.10      Standards for Subdivision Proposals**

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

- 11-216.10.1 All subdivision proposals shall be consistent with the need to minimize flood damage.
- 11-216.10.2 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- 11-216.10.3 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

11-216.10.4 Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres.

11-216.10.5 All subdivision lots shall have flood-free building site.

**11-216.11 Board of Zoning Appeals**

11-216.11.1 The Smithville Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Chapter.

11-216.11.2 Variances may be issued for the repair or rehabilitation of historic structures (see definition 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 to preserve the historic character and design of the structure.

11-216.11.3 In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and:

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

11-216.11.4 Upon consideration of the factors listed above, and the purposes of this Chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Chapter.

11-216.11.5 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

#### 11-216.11.6 Conditions for Variances

- (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
- (b) Variances shall only be issued upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship, and (3) 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.

11-216.11.7 Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

11-216.11.8 The Building Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

### 11-217 LEGAL STATUS PROVISIONS

#### 11-217.1 Conflict with Other Ordinances

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Smithville, the most restrictive provision shall in all cases apply.

**11-217.2      Validity**

If any section, clause, provision, or portion of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

**11-217.3      Effective Date**

This Ordinance shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it.

Zoning Ordinance originally approved by the Smithville Municipal Planning Commission:

Zoning Ordinance originally passed by Mayor and Board of Aldermen on Final Reading:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Vice-Mayor