

## CHAPTER 8

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

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#### **14-801 ADMINISTRATION OF THE ORDINANCE**

Except as, otherwise, provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted, hereafter, impose greater restrictions than those specified, herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

#### **14-802 THE ENFORCEMENT OFFICER**

The provisions of this ordinance shall be administered and enforced by the City Building Inspector and/or Zoning Administrator. In performance of administering and enforcing this ordinance, they shall:

- A. Issue all Building Permits and make and maintain records, thereof.
- B. Issue all Certificates of Occupancy and make and maintain records, thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records, thereof.
- D. Maintain and keep current zoning maps and records of amendments, thereto.

- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

### **14-803 BUILDING PERMITS**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, or to commence the filling of land without a permit therefore, issued by the Building Inspector and/or Zoning Administrator. If said excavation or construction is begun without a proper building permit, the building permit fee shall be double or twice the original cost of the permit if legal compliance had been obtained as is required.

No Building Permit shall be issued by the Building Inspector and/or Zoning Administrator, except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this ordinance.

#### **A. Application**

Application for a Building Permit shall be made in writing to the Building Inspector and/or Zoning Administrator on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following:

1. The actual shape, location, and dimensions of the lot to be built upon.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
3. The existing and intended use of all such buildings or other structures.
4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

#### **B. Site Plan Requirements**

Site plans containing the information required for the particular use by this section must be submitted to the Building Inspector at the time of an application for a building permit. It is specifically anticipated that the approval process for dwelling, single-family detached and additions of five thousand (5,000)

square feet or less to commercial and residential structures, excluding planned commercial developments shall be administratively approved by the Building Inspector. All other uses shall only be approved in the manner set forth in Section 14-803, B, 2.

1. Site Plans Required for Dwelling, Single-Family Detached

- a. The actual shape, location, and dimensions of the lot to be built upon.
- b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
- c. The existing and intended use of all such buildings or other structures, upon it, including the number of dwelling units the building is intended to accommodate.
- d. The size and location of all yards and open areas required by this ordinance.
- e. The location of all public water and sewer lines from which the property is to be served.
- f. The location and approximate dimension of all points of access to a public street or road.
- g. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- h. Where subsoil sewage disposal is anticipated, certification from the county health department approving the lot for such use.
- i. North arrow.

2. Site Plans Required for All Other Buildings and Activities

This procedure is to be utilized for all buildings and activities, except those subject to the provisions of Section 14-803, B., 1. Unless, otherwise, specified, the reviewing agency shall be the Fayetteville Planning Commission. Proposals for planned developments and mobile home parks shall follow separate provisions outlined elsewhere in this ordinance, but such proposals shall also be reviewed by the Planning Commission.

The following information shall be included in the site plan:

- a. General Location Sketch Map at a Scale not Smaller than 1" = 2,000', Showing:
  - i. The approximate boundaries of the site.

- ii. External (public access streets or roads in relation to the site).
  - iii. Surrounding development (i.e., general residential, commercial, and industrial areas) within the general vicinity of the site.
  - iv. Any public water and sewer systems in relation to site.
- b. Site Plan Drawn at a Scale no Smaller than 1" = 200', Showing:
- i. The actual shape, location, and dimensions of the lot.
  - ii. The shape, size, and location of all buildings or other structures already on the lot.
  - iii. The existing and intended use of the lot and of such structures upon it, including, for residential activities, the number of dwelling units the buildings are intended to accommodate.
  - iv. For purposes of site plan approval only, topographic contours, both existing and proposed, shall be provided with contour intervals no greater than two (2) feet for portions of sites on which improvements are proposed. Five (5) foot contour intervals are permitted for areas of the site not proposed to be disturbed. Contour intervals shall be provided as stated above, but shall extend to parcel lines or a minimum distance of three-hundred (300) feet beyond the limits of disturbed areas and to a distance of at least twenty-five (25) feet beyond parcel lines where parcel lines are encountered. The extent and accuracy of topographic mapping beyond that required for site plan review is the responsibility of the design professional. **(Amended by Ordinance No. 2012-08, April 10, 2012)**
  - v. Location of all driveways and entrances.
  - vi. Location of all accessory off-street parking areas to include a plan showing design and layout of such parking facilities where five (5) or more accessory off-street parking spaces are to be provided. (Dimensions and surface treatment shall be provided.)
  - vii. Location of all accessory off-street loading berths.
  - viii. Location of open space.
  - ix. Proposed ground coverage, floor area, and building heights.
  - x. Position of fences and walls to be utilized for screening (materials and height specified).

- xi. Position of screen planting (type of planting specified).
- xii. Proposed means of surface drainage, including all drainage ways and facilities.
- xiii. Location and size of all easements and rights-of-way.
- xiv. Location of areas subject to flooding.
- xv. Location and size of all utilities, including all fire hydrants.
- xvi. Location, type, height, and size of proposed signs.
- xvii. The zoning classification of the site if applicable.
- xviii. The zoning classification of abutting properties if applicable.

c. Review Procedure

i. Preapplication Conference Utilities Committee Review

Prior to the filing of the application, the applicant shall confer with the Planning Commission to clarify procedures and issues. Review by the Utilities Committee shall precede preliminary review.

ii. Preliminary Review

Five (5) copies of the proposal containing the information required above shall be submitted to the Fayetteville Planning Commission no later than noon, the Second, Wednesday, of the month, to be considered for preliminary review. Commission findings, including necessary revisions or additions prior to the final site plan submission, shall be outlined to the applicant.

iii. Final Review **(Amended by Ordinance No. 2000-1, January 11, 2000)**

Five (5) copies of the proposal containing the information required above shall be submitted to the Fayetteville Planning Commission, no later than noon, the Second, Wednesday, of the month, to be considered for final review. Upon final approval, the Planning Commission shall authorize issuance of a permit for the planned project by the Building Inspector.

d. The Planning Commission as the Reviewing Body May:

- i. Recommend approval of the plan as submitted to the Building Inspector.
- ii. Recommend disapproval of the plan.

- iii. Recommend approval of the plan with conditions or recommendations for alterations.

C. Fee

The Fayetteville Board of Mayor and Aldermen shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the office of the Building Inspector and City Hall. Only the City Board may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

D. Issuance of Permit

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector shall issue a building permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as a waiving of any provisions of this ordinance.

E. Construction Progress

In the event that actual construction has not begun within one (1) year from the date of approval of the planned development project or any improvements associated with an existing or approved development project or if the work authorized is suspended, discontinued or not completed within one (1) year from the date of approval, the approval and/or permit for said project shall expire unless an extension of approval is obtained by the Developer from the Planning Commission prior to its expiration. Reinstatement of a project after its expiration shall require submission of the proposal for Planning Commission approval. As par of reinstatement, the Planning Commission may require applicants to make periodic appearances in front of the Planning Commission to deliver project status updates. If said Applicant fails to deliver status updates required by the Planning Commission, the development project approval shall be automatically revoked. **(Amended by Ordinance No. 2011-14, June 14, 2011)**

**14-804 TEMPORARY USE PERMITS**

It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the City Building Inspector and/or Zoning Administrator, as provided for in CHAPTER 5, Section 14-503, of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector and/or Zoning Administrator on the form provided for that purpose. A schedule of fees shall be established by the Fayetteville City Board. Such schedule shall be posted in the office of the Building Inspector and City Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

**14-805 CERTIFICATE OF OCCUPANCY**

No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after

notification that a building or premises or part thereof is ready for occupancy of 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 building or premises or part thereof is found to conform with provisions of this ordinance, or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

#### **14-806 BOARD OF ZONING APPEALS**

In accordance with Section 13-7-205, Tennessee Code, a Fayetteville Board of Zoning Appeals, is hereby established.

##### A. Term of Office of Board Members, Removal, and Vacancies

The Board of Zoning Appeals shall consist of three (3) members. They shall be appointed by the Mayor of Fayetteville and confirmed by a majority vote of the Board of Mayor and Aldermen. The term of membership shall be three (3) years, except that the initial individual appointments to the board shall be terms of one (1), two (2), and three (3) years. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the Board of Mayor and Aldermen and may be removed from membership on the Board of Zoning Appeals for continued absence or just causes. Any member being so removed shall be provided, upon his/her request, a public hearing upon the removal decision. Vacancies of said Board of Zoning Appeals shall be filled for the unexpired term by the Mayor with confirmation by the Board of Mayor and Aldermen.

##### B. Procedure

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records and action taken thereon. The records and minutes shall be filed in the office of the Building Inspector and shall be of public records.

##### C. Appeals to the Board

An appeal to the Fayetteville Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, 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 of Zoning Appeals 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 appealed was taken.

The Board shall fix a reasonable time for the hearing of the appeal, given public notice thereof, as well as due notice to the parties in interest, and decided the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

D. Powers of the Board

The Board of Zoning Appeals shall have the following powers:

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, determination or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision of this ordinance.

2. Special Exceptions

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the Zoning Map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

3. Variances

To hear and decide applications for variances from the terms of this ordinance.

E. Rules and Regulations of the Board

The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

1. The presence of two (2) members of the Board shall constitute a quorum and the concurring vote of at least two (2) members of the Board shall be necessary to deny or grant any application before the Board.
2. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Lincoln County at least ten (10) days before the hearing of an appeal. Appeals shall be considered and heard by the Board within thirty (30) days after filing such appeal. If new information is uncovered regarding an action that could not have been reasonably presented in a public hearing before the Board, The Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.
3. The Board may call upon any other office or agency of the city government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required.
4. The Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing.
5. Any officer, agency, or department of the city or other agency may appeal any decision of the Board to a court of competent jurisdiction as provided for by State law.

6. Any decision made by the Board on a special exception shall indicate the specific section of this ordinance under which the permit is being considered and shall state clearly the specific conditions imposed in granting such permit.
7. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board with good and sufficient cause being shown.
8. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

F. Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the building inspector certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause eminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

G. Liability of Board Members, Building Inspectors and Employees

Any board member, building inspector, or other employee charged with the enforcement of this ordinance, acting for the City of Fayetteville, within the scope of the responsibilities assigned him under this ordinance shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the city of any damage that may occur to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any board member, building inspector, or employee charged with the enforcement of any provision of this ordinance shall be defended by legal representatives furnished by the city, until the final termination of such proceedings.

H. Right of Entry upon Land

Upon notice to property owners, the Board, its members and employees in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this ordinance.

I. Rehearings

1. No rehearing of the decision by the Board shall be had except:
  - a. On motion to reconsider the vote; or
  - b. On a written request for a hearing.

2. If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by resolution in each case, stipulate.
3. No request to grant a rehearing will be entertained, unless new evidence is submitted which could not reasonably be presented at the previous hearing.

If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

4. No rehearing for a variance shall be granted an applicant found by a court of competent jurisdiction to be in willful violation of the express provisions of a prior variance granted under the authority of this chapter.

#### **14-807 VARIANCES**

The purpose of this variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

##### A. Application

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

##### B. Hearings

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

##### C. Fee

A fee determined by the "Planning Commission Schedule of Fees" adopted by the Board of Mayor and Aldermen will determine the amount charged to cover review and processing of each application for a variance, except that the fee shall be waived for a governmental agency. **(Amended by Ordinance No. 2009-13, December 8, 2009)**

D. Standards for Variances

The Board shall not grant a variance, except where special circumstances or conditions, fully described in the findings of the Board, do not apply generally in the district. The burden of showing the variance should be granted shall be upon the person applying for the variance. In granting a variance, the Board shall ascertain that the following criteria are met:

1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
3. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other land, structures, or buildings in the same district.
4. Financial returns only shall not be considered as a basis for granting a variance.
5. The variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
6. The variance will not authorize activities otherwise excluded from the particular district in which requested.
7. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning district wherein such property is located or of the general provisions of this ordinance.
8. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
9. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

E. Restrictions and Variances

1. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. Under no circumstances shall the Board of Appeals grant a variance to allow a "USE" not permissible under the terms of this ordinance in the

district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

3. The Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out in Section 14-807, D, to reduce or minimize the injurious effect to such variation upon surrounding property and to better carry out the general intent of this ordinance. The Board may establish expiration dates as a condition or as a part of any variances.

#### **14-808 PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS**

The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Section 13-7-206, of the Tennessee Code, by this ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

##### A. Application

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended use of the site, the names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Board may require.

##### B. General Requirements

A conditional use permit (a special exception) shall be granted provided the Board finds that it:

1. Is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
2. Will not adversely affect other property in the area in which it is located.
3. Is within the provision of "Special Exceptions", as set forth in this ordinance.
4. Conforms to all applicable provisions of this ordinance for the district in which it is to be located as well as the provisions cited in Section 14-808, which are necessary for public convenience in the location planned.

##### C. Criteria for Review

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions (Section 14-808) and that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the Items 1 and 2, above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions, and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.
8. General compatibility with adjacent properties and other property in the district.
9. The following rules shall apply for upper story residential development proposals: **(Added by Ordinance No. 2001-8, July 10, 2001)**
  - a. All upper story residential development proposals shall be in compliance with Title 7, Fire Protection and Fireworks, Title 12, Building, Utility, Housing, etc., Codes of the Fayetteville Municipal Code.
10. Plans and specifications shall be submitted to the Planning Commission for approval (initial development of apartment). **(Added by Ordinance No. 2001-8, July 10, 2001)**
11. No outside storage permitted. **(Added by Ordinance No. 2001-8, July 10, 2001)**
12. Refuse shall be placed in approved municipal containers. **(Added by Ordinance No. 2001-8, July 10, 2001)**
13. All exterior windows and dressing shall be consistent and in harmony with the existing appearance of the Downtown Historic District, including any portion of the interior which is visible from the street. **(Added by Ordinance No. 2001-8, July 10, 2001)**

D. Restrictions

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

E. Validity of Plans

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

F. Time Limit

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

G. Special Exceptions Appeals

Any person or agency of the city government may appeal to a court of competent jurisdiction from the Board's decision as provided under statutes of the State of Tennessee. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final, and subject to review only for illegality or want of jurisdiction. A fee determined by the "Planning Commission Schedule of Fees" adopted by the Board of Mayor and Aldermen will determine the amount charged to cover review and processing of each application for a special exception. **(Amended by Ordinance No. 2009-13, December 8, 2009)**

H. Specific Standards for Community Facility Activities

In addition to the requirements of the applicable district and the general requirements set forth above, a special exception shall be granted for the community facility activities specified below only when the standards established are met as part of the condition for issuing the permit in the applicable zoning district.

1. Special Conditions for Administrative Services

- a. There must be a demonstrated need for such activities to serve the neighborhood or the total community.
- b. All lot, yard, and bulk regulations of the zone district shall apply.
- c. Appropriate off-street parking requirements shall apply.
- d. Fencing, screening, and landscaping shall be provided as appropriate to protect surrounding properties and reduce any potential adverse impact.
- e. The site and architectural plans shall be approved by the Planning Commission.

2. Day Care Centers

For purposes of this ordinance day care facilities are classified into four (4) types as individual, family, group, and center.

- a. Day Care: Individual, Family, Group

- i. The required lot size, yard, and bulk regulations of the district shall apply. No variances shall be permitted for lots on which such use is to be located.
- ii. All public utilities and sanitary sewers shall be available and connected to the site unless the site is over one (1) acre in size. The fire department shall approve the facility for safety.
- iii. All requirements of the State of Tennessee that pertain to the use shall be met.
- iv. An outdoor play area of at least two hundred (200) square feet per child in size shall be available and shall be fenced.
- v. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using the facility.
- vi. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area.

b. Day Care: Center (Thirteen (13) or More Children)

- i. No such facility shall be permitted on a zone lot unless it contains a minimum of forty thousand (40,000) square feet.
- ii. All bulk and setback regulations of the district shall be met.
- iii. One (1) accessory off-street parking space for each five (5) children accommodated in the child care facility shall be provided.
- iv. Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up movements by vehicles to enter or exit the zone lot.
- v. All regulations of the State of Tennessee that pertain to the use shall be met.
- vi. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.
- vii. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area.
- viii. The site and architectural plans of such a facility shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

- ix. All public utilities, including sewers, shall be available and connected to the site.

3. Special Conditions for All Other Personal and Group Care Activities Other than Day Care Facilities

- a. No such facility shall be permitted on a zone lot, unless it contains a minimum of one (1) acre.
- b. All bulk regulations of the district shall be met.
- c. The requirements of the accessory off-street parking regulations of this ordinance shall apply.
- d. All regulations of the State of Tennessee shall be met.
- e. All public utilities and sewage disposal shall be available and connected to the site, and the site and architectural plans for such a facility be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

4. Special Conditions for Community Assembly

- a. No such facilities shall be permitted on a lot unless it contains one (1) acre provided, however, that if such community assembly includes outdoor activities, the minimum lot area shall be four (4) acres.
- b. All bulk regulations of the zone district shall apply.
- c. Off-Street Parking
  - i. For nonprofit clubs, lodges, meeting halls, and recreation centers, one (1) space for each four (4) seats in an assembly area within the facility, or one (1) space for each seventy-five (75) square feet of gross floor area, whichever is greater, shall be provided.
  - ii. For temporary nonprofit festivals, the required number of off-street parking spaces shall be determined by the board, taking into account the traffic generation of such facility, the hours of other such factors as affect the need for off-street parking.
- d. Except for temporary nonprofit festivals, fencing, screening and landscaping shall be provided as appropriate for such facility; however, no landscaped screen shall be located closer than fifteen (15) feet of any vehicular entrance or exit to the property.
- e. The location and operation of such community assembly facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.

- f. All public utilities and sewage disposal shall be available and connected to the site.
- g. Except for temporary nonprofit festivals, the site and/or architectural plans shall first be approved by the Planning Commission taking into account the above conditions.

5. Special Conditions for Cultural and Recreational Services

- a. No such activity shall be permitted on a zone lot, unless it contains twice the lot area requirements of the district.
- b. All bulk regulations of the district shall apply.
- c. The off-street parking requirements of this ordinance shall apply.
- d. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area and shall not have an adverse affect on properties within the surrounding area.
- e. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse affect on properties within the surrounding area.
- f. The site and architectural plans shall first be approved by the Planning Commission taking into account the above conditions.

6. Special Conditions for Community Education

- a. No such facilities shall be permitted on a zone lot unless such lot contains the acreage recommended for such facilities by the appropriate state agency.
- b. The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.
- c. The location and design of such facilities shall not have an adverse effect upon surrounding properties.
- d. The off-street parking requirements of this ordinance shall apply.

7. Special Conditions for Health Care Facilities

a. Minimum Lot Area

- i. No health clinic shall be permitted on a zone lot, unless it contains twice the lot area requirements of the district.
- ii. No hospitals, or centers for observation or rehabilitation shall be permitted on a zone lot unless it contains a minimum of five (5) acres.

- b. The minimum side and rear yards for hospitals and centers for observation or rehabilitation shall be fifty (50) feet for a one (1) or two (2) story building, increased by five (5) feet for each story above two (2).
- c. All other regulations of the district shall apply.
- d. There shall be provided along the entire site boundaries fencing, screening, and landscaping as appropriate to protect the surrounding residential area.
- e. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties in the surrounding area.
- f. All public utilities and sewage disposal shall be available and connected to the site.
- g. The site and/or architectural plans shall first be approved by the Planning Commission taking into account the above conditions.
- h. The following activity classes and types (i, ii) may be permitted accessory to the Health Care Activities:
  - i. Community Facility Activities
  - ii. Commercial Activities
    - Automotive Parking**
    - Convenience Commercial**
    - Food and Beverage Service**
    - Food Service, Drive-In**
    - Medical and Professional Services**

Provided such activity classes and types: (a) appropriately complement the Health Care Activity; (b) will not impose an adverse impact on the surrounding land use; and (c) are subject to all other provisions of the zoning district.

8. Special Conditions for Intermediate and Extensive Impact Facilities

- a. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- b. The traffic generated by such facility shall be safely accommodated along major arterials or collectors without traversing local minor streets.
- c. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.

- d. The off-street parking requirements shall be determined by the Board taking into account characteristics of the use.
- e. The site plan for such facilities shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facility.

9. Special Conditions for Essential Services

- a. The location of such facility shall be within an area in order to provide the most efficient service to the community.
- b. All of the bulk regulations of the zone district shall apply.
- c. The location of such facility shall not materially increase traffic on surrounding streets.
- d. The location of such a facility shall not have an adverse effect on surrounding properties.
- e. There shall be provided along the entire site boundaries fencing, screening, and landscaping, as appropriate to protect the surrounding residential area.
- f. The site plan for such facility is first approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

10. Special Conditions for Religious Facilities

- a. No such facilities shall be permitted on a zone lot, unless it contains one (1) acre.
- b. The location, size, and design of such facilities shall be situated so that the proposed facility shall be compatible with the development within the surrounding area thus reducing the impact upon such area.
- c. All bulk regulations of the district shall be met.
- d. The off-street parking requirements of this ordinance shall apply.

I. Specific Standards for Commercial Activities

A special exception shall not be granted for the commercial activities specified below, unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable districts.

1. Special Conditions for Group Assembly Activities

- a. The location, size, and design of such facilities shall be situated so that the proposed development shall be compatible with the development within the surrounding area thus reducing the impact upon the surrounding area.
- b. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
- c. The off-street parking requirements shall be based on the type of use and the needs of the use to adequately accommodate the expected groups of people.
- d. The site plan for such facilities shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facilities.
- e. When an application for a group assembly permit includes amusement parks, sports arenas, fairgrounds, racetracks, and similar recreational pursuits, the following requirements shall be observed:
  - i. The minimum size site shall be twenty-five (25) acres.
  - ii. The minimum setbacks of all structures from all public roads shall be one hundred (100) feet.
  - iii. Such facility shall be situated so that no residential use is located closer than five hundred (500) feet from building entrance of the principal use at the time of approval.
  - iv. Access to such facility shall be by a paved road and such road shall be either a major arterial or major collector. Traffic shall not be directed through residential subdivisions or on minor residential streets.
  - v. Off-street parking shall be provided at a minimum of one (1) space for each four (4) patrons or seats. For those facilities which are not utilized on a regular and frequent basis, parking may be provided on adjacent parcels of land provided further that any parcel so used is located no more than five hundred (500) feet from the lot boundary.
  - vi. Any lighting provided at such facilities shall be designed so that no direct light falls on adjacent residential property.
  - vii. Accessory uses may be permitted in conjunction with the principal use of the property provided that such uses are physically designed as a part of or within the principal structure. Such uses may include food sales, beverage sales, gift or souvenir shops, and similar activities.

- viii. Accessory structures may be permitted which are incidental and subordinate to the principal structure. Such structure may not be located within any required setback or buffer area.
- f. When an application for a Group Assembly Permit includes a private campground, the following standards shall be met:
  - i. Such campground shall have on-site management.
  - ii. The campground may include convenience commercial establishments such as camp stores, laundry facilities, and personal services; provided that such convenience establishments are subordinate to the recreational character of the campground; are located, designed and intended to serve exclusively the patrons staying in the campground; and such establishment and their parking areas shall not occupy more than ten (10) percent of the area of the parking or one (1) acre whichever is smaller.
  - iii. Such Campground Shall Meet the Following Standards:
    - Minimum size - ten (10) acres.**
    - Maximum density - ten (10) campsites per gross acre.**
    - Sanitary facilities, including flush toilets and showers - Within three hundred (300) feet walking distance of each campsite.**
    - Dump station for travel trailers.**
    - Potable water supply - one (1) spigot for each four (4) campsites.**
    - Trash receptacle - one (1) receptacle for each two (2) campsites.**
    - Parking - one (1) parking space per campsite.**
    - Picnic table - one (1) table per campsite.**
    - Fireplace or grill - one (1) fireplace or grill per campsite.**
    - Administration or safety building - open at all times wherein a portable fire extinguisher in operable condition and first aid kit is available, and a telephone is available for public use.**

iv. Such Campground Shall Meet the Following Design Requirements:

Vegetation screen or ornamental fence which will substantially screen the campsites from view of public right-of-way and neighboring properties shall be provided around or near the perimeter or that part of the campground containing campsites. Such vegetation or fence shall be maintained in good condition at all times.

Each campground shall reserve at least twenty-five (25) percent of its total area as natural open space excluding perimeter screening. Such open space may include recreation and water areas, but may not include utility areas, administration building, commercial areas, or similar activities.

Each campsite shall have a minimum setback of twenty-five (25) feet from any public road.

Each separate campsite shall contain a minimum of thirty two hundred (3,200) square feet. (A campsite shall be considered to consist of trailer or tent space, parking space, picnic table, fireplace, and one-half (1/2) the roadway providing access.)

Each campsite shall be directly accessible by an interior road.

All interior roads shall be a minimum of ten (10) feet wide for one (1) way traffic and eighteen (18) feet wide for two (2) way traffic.

All interior roads shall meet the following curve requirements:

- **Minimum radius for a 90 degree turn - 40 feet**
- **Minimum radius for a 60 degree turn - 50 feet**
- **Minimum radius for a 45 degree turn - 68 feet**

No camping vehicle or camping equipment shall be used for human habitation for a period exceeding thirty (30) consecutive days.

J. Specific Standards for Intermediate Manufacturing Activities

1. Specific Standards for Intermediate Manufacturing Activities

A special exception permit shall not be granted, unless the standards below are met:

- a. The activity takes place in completely enclosed buildings with no outdoor storage of materials or finished products.
- b. Access for heavy trucks and employees is from a major thoroughfare or industrial access road from a major thoroughfare with residential streets unaffected.

2. Specific Standards for Extensive Manufacturing Activities

A special exception shall not be granted unless the standards below are met:

- a. No such facility shall be located on a lot unless such lot contains at least one (1) acre.
- b. Access for heavy trucks and employees is from a major thoroughfare or industrial access road from a major thoroughfare with residential streets unaffected.
- c. State permits for air pollution standards, ground water and emissions must be obtained and kept up-to-date.
- d. The site plan is first approved by the Planning Commission taking into account factors related to the use and operation of the facility.

**14-809 AMENDMENTS TO THE ORDINANCE**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the Fayetteville Board of Mayor and Aldermen. Any member of the City Board may introduce such legislation, or any official, board, or any other person may present a petition to the City Board requesting an amendment or amendments to this ordinance.

No amendment to this ordinance shall become effective unless it is first submitted to the Fayetteville Regional Planning Commission for review and recommendation. The Planning Commission shall have sixty (60) days within which to submit its recommendation to the City Board. If the Planning Commission disapproves the amendment, it shall require the favorable vote of a majority of the City Board to become effective. If the Planning Commission fails to submit a report within the sixty (60) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission and approved by it, or, if disapproved, received the favorable vote of a majority of the entire membership of the City Board.

Before finally adopting any such amendment, the City Board shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the county; and any such amendment shall be published at least once in the official newspaper of the city or in a newspaper of general circulation in the city.

A fee determined by the "Planning Commission Schedule of Fees" adopted by the Board of Mayor and Aldermen will be due and payable at the time of filing of petition and shall be posted with requests to amend a provision or provisions of this zoning ordinance. The fee is to be used by Fayetteville to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance. (Amended by Ordinance No. 2009-13, December 8, 2009)

#### **14-809.1 Application for Rezoning**

A proposed change of zoning district boundaries shall be initiated by the filing of an application with the Fayetteville Planning Commission. Said application shall contain:

1. The name and address of the owner and/or owners of the subject property, and the written certification of the authorized agent.
2. A written legal description of the subject property, including the Lincoln County Tax Plat number and acreage.
3. A description of the proposed zone change, modification or repeal together with written justifications for the requested zone change.
4. The names and addresses of the adjacent property owners including those property owners across streets, roads, highways, and/or railways, and waterways which border the applicant's property.
5. Two (2) copies of a map depicting the property requested for rezoning. These maps shall be at a scale of no less than one inch equals one hundred feet (1" = 100') and no larger than one inch equals thirty feet (1" = 30') and show the following information.
  - a. Title, north arrow, graphic scale, date, civil district, and the acreage of the property to be rezoned.
  - b. Dimensions in feet of property to be rezoned.
  - c. All roads and easements within or adjoining property to be rezoned.
  - d. Location, size, type and current use of any building on the property requested for rezoning.
  - e. Location of the adjoining property owners in relation to the property to be rezoned.
6. A fee determined by the "Planning Commission Schedule of Fees" adopted by the Board of Mayor and Alderman will determine the charge to cover the review, possible map change, and processing of each application. **(Amended by Ordinance No. 2009-13, December 8, 2009)**

**14-810 PENALTIES**

Any persons violating any provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violations continue shall constitute a separate offense.

**14-811 REMEDIES**

In case any building or other structure is erected, constructed, altered, 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 specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**14-812 VALIDITY**

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

**14-813 INTERPRETATION**

Whenever the conditions of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or any other regulation, the provisions which are more restrictive shall govern.

**14-814 EFFECTIVE DATE**

This ordinance shall take effect from and after the effective date of its passage and publication as required by law, the public welfare requiring it.

Certified by the Fayetteville Municipal/Regional Planning Commission.

April 28, 1998  
Date

Bill Duncan  
Secretary, Fayetteville Municipal/Regional  
Planning Commission

Approved and adopted by the City Board of Fayetteville, Tennessee.

July 14, 1998  
Date

John Ed Underwood, Jr.  
Mayor, Fayetteville, Tennessee

ATTESTED BY:

Lynn Wampler  
City Clerk

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