

# **ZONING ORDINANCE**

## **TOWN OF MOUNTAIN CITY**

**ORIGINALLY ADOPTED: NOVEMBER 2, 1967**

**AMENDED THROUGH NOVEMBER 2022**

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Town of Mountain City Municipal Planning Commission

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ORDINANCE:  
TOWN OF MOUNTAIN CITY, TENNESSEE  
ZONING ORDINANCE

An ordinance, in pursuance of the authority granted by Sections §13-7-201 through §13-7-210 and Section §13-7-401, Tennessee Code Annotated, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare to provide to the establishment of districts within the corporate limits to regulate, within such districts, the location, height, bulk, number of stories, and size of building and structure, percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and 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 Town of Mountain City.

ARTICLE I.     SHORT TITLE AND REPEAL

Section 101. Short Title.     This ordinance shall be known as the “Zoning Ordinance of the Town of Mountain City, Tennessee, and the map herein referred to, which is identified by the title “Zoning Map of the Town of Mountain City, Tennessee,” and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

Section 102. Repeal.     All zoning regulations in effect prior to the adoption of Ordinance No. 1410 of the Town of Mountain City as amended are hereby repealed. The adoption of this ordinance, however, shall not affect nor prevent any pending or future prosecution of an action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this ordinance.

ARTICLE II.     PURPOSE

The zoning regulations and districts as herein set forth have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic and overcrowding of land, to avoid undue concentration of population, to facilitate adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, with a view of conserving the value of buildings, and encouraging the most appropriate use throughout the town.

## ARTICLE III. DEFINITIONS

Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word “shall” is mandatory, not directory. The word “used” or “occupied” as applied to any land or building shall be construed to include the word “intended” “arranged”, or “designed to be used or occupied”.

**301. Access.** The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

**302. Accessory Building, Height Of.** The vertical distance measured from the average ground elevation to the highest point of the roof.

**303. Accessory Use or Building.** A use or building customarily incidental and subordinate the principal use or building and locate on the same lot with such principal use or building. The following are excluded: single-wide mobile homes, tractor trailers, car trailers, recreational vehicles, storage containers designed to transport goods, etc. that are not customarily designed accessory structures.

**304. Activity.** The performance of a function or operation which constitute the use of land.

**305. Arterial Street.** A street that provides for traffic movement between areas and across portions of the city and secondarily for direct access to abutting land, as shown in the Zoning Map of the Town of Mountain City.

**306. Agricultural Use.** This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock horticulture, viticulture, floriculture, forests and woods, provided, however, all health codes of Mountain City and Johnson County, Tennessee are complied with.

**307. Agricultural Accessory Use.** Those structures or equipment which are normally required in the operation of agricultural uses.

**308. Alley.** A major right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

**309. Alteration.** As applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending a side or by increasing its height or structural changes other than repairs that would affect safety. The term “alter” in its various modes and senses and its practical forms, refers to the making of an alteration.

**310. Area, Building.** The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**311. Base Flood.** The baseline flood event used in a community's floodplain management program. For the purposes of this code, the definition shall read one-hundred (100) year flood.

**312. Base Flood Elevation.** Elevation determinations along a floodplain that mark the extent of flooding by the base flood. These data are most frequently taken from flood insurance rate maps (FIRM)

**313. Basement.** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevation or when subdivided and used for commercial activities.

**314. Bed and Breakfast Home.** A residential unit in which no more than six (6) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided. The owner shall have primary residence on the premises and the site shall be subordinate and incidental to the main residential use of the building.

**315. Boarding or Rooming House.** A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided with or without meals for compensation. Meals are to be provided for registered overnight guests only.

**316. Buffer Strip.** Plantings acceptable to the Building Inspector which has such growth characteristics and will provide an obscuring screen not less than six (6) feet in height.

**317. Buildings.** Any structure having a roof supported by columns or by walls, and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.

317.1. Principal Building. A building in which is conducted the main or principal use of the lot on which said building is located.

317.2. Accessory Building or Use. A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

**318. Building Area of a Lot.** That portion of a lot bounded by the required rear yard, side yards, and the building setback line.

**319. Building Height.** The vertical distance measured from the finished grade at the building line to the highest point of the roof.

**320. Building Setback Line.** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided herein.

**321. Building Setback Line, Front.** A line delineating the minimum allowable distance between the street right-of-way, or if an official future street right-of-way has been established as shown on the current adopted Major Thoroughfare Plan Map, from that future street right-of-way line, and the front of a building on a lot. The front building setback line extends the full width of the lot and is parallel to or concentric with the street right-of-way. No structure shall be placed in front of this building setback line.

**322. Building Setback Line, Side.** A line delineating the minimum allowable distance between the rear property line and a building on a lot (other than for permitted accessory structures), the rear setback line extends the full width of the lot.

**323. Building Setback Line, Rear.** A line delineating the minimum allowable distance between the rear property line and a building on a lot (other than for permitted accessory structures). The rear setback line extends the full width of the lot.

**324. Business Sign.** A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

**325. Billboard or Outdoor Advertising Sign.** A sign which advertises products or businesses primarily not connected with the site or building on which they are located.

**326. Carport.** A structure used for the storage of vehicles and having no enclosure other than its roof and such accessory support as will present the minimum obstruction to light, air and view.

**327. Center Line of the Street.** That line surveyed and monumented by the governing body shall be the center line of the street, or if such corner line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

**328. Club.** Buildings and facilities owned or operated by an association or persons for social or recreational purpose,

**329. Collector Street.** A street providing for traffic movement within the town as shown on the Zoning Map of the Town of Mountain City.

**330. Condominium.** A multi unit structure offering individual ownership of said units.

**331. Country Inn.** A country inn is a professionally licensed business that provides lodging to registered guests and serves breakfast to registered guests at least one (1) other meal to registered guests and/or the public.

**332. Coverage.** The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

**333. Day Care Center.** A place operated by a person, society, agency, corporation, institution, or other group that received pay for the care of eight (8) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody. The term "Day Care Center" also includes child development center, nursery schools, day nurseries, play schools, and kindergartens, as well as agencies provided before and after school care, regardless of name, purpose, or auspices. (Excluding schools graded 1-12 and kindergartens operated by governmental units or by religious organizations).

**334. Development.** A 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.

**335. District.** Any section or sections of the area lying within Mountain City, Tennessee, for which the regulations governing the use, density, bulk, height, and coverage of buildings and other structures are in force.

**336. Dwelling, Single Family.** A building designed, constructed and used for one dwelling unit.

**337. Dwelling, Two Family or Duplex.** A building designed, constructed or reconstructed and used for two (2) dwelling units that are connected by a common structural wall.

**338. Dwelling Multi-Family.** All buildings designed, constructed or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural wall with any other dwelling unit on the same floor.

**339. Family.** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, to such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises without being counted as a family or families.

**340. Frontage.** All the property on one side of a street between two (2) intersecting streets crossing or terminating measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

**341. Gasoline Service Station.** Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. However, uses permissible at a gasoline service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating conditions, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in a service station. A gasoline service station is not a repair garage nor a body shop.

**342. Grade, Finished.** The completed surface of laws, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**343. Group Home.** A residential facility which offers a home like environment for mentally retarded, mentally handicapped, or physically handicapped residents, on either a permanent or temporary basis.

**344. Historic District.** A district or zone designated by a local authority, state, or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history, or because of their unique architectural style and scale, including color, proportion, form, and architectural detail, or because of their being a part of or related to a square, park, or are the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

**345. Home Occupations.** An occupation conducted in a dwelling unit, provided that:

- a. Only one (1) person other than members of the family residing on the premises shall be engaged in such occupation.
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty-five (25%) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated and mounted flat against the wall of the principal building.

d. Home occupations within accessory structures may be permitted upon appeal and approval of the Board of Zoning Appeals.

e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot.

**346. Hospital.** See medical facilities.

**347. Indoor-Climate Controlled Storage Facility.** A building or group of buildings of controlled access that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers that have controlled levels of heat and humidity, leased or rented on an individual basis for the storage of household and other personal property (no commercial storage) with no commercial transactions permitted other than the rental of storage units. (Amended by Ord. No. 1784, 11/01/2022).

**348. Junk Yards.** Any open or uncovered land on which dilapidated automobiles, machines or machine parts, scrap metal, rags, plastics, boxes, barrels, old papers or tires, and the like are assembled for purposes of trade or disposal.

**349. Lot.** A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open spaces.

348.1. Lot line. The boundary dividing a given lot from a street alley, or adjacent lots.

348.2. Lot line, Front. That property line running with the street right-of-way which gives access to the lot.

348.3. Lot of Record. A lot, the boundaries of which are filed as legal record.

**350. Lot Width.** The width of a lot at the required building setback line measured at right angles to its depth.

**351. Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). This does not include the floor of an enclosed garage used solely for parking vehicles.

**352. 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 Mountain City Zoning Ordinance.

**353. Medical Facilities.**

352.1. Convalescent, Rest or Nursing Home. A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

352.2. Dental Clinic or Medical Clinic. A facility for the examination and treatment of ill and afflicted human out-patients, provided however, that patients are not kept overnight except under emergency conditions.

352.3. Hospital. An institution provided health services primarily for human in-patient medical care for sick or injured and including related facilities such as service, and staff office which are an integral part of the facility.

352.4. Public Health Center. A facility utilized by a health unit for the provision of public health services.

**354. 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 Mountain City Zoning Ordinance.

**355. Mini Warehouse.** A building or group of buildings in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of “customer” goods or wares.

**356. Mobile Home.** A detached residential dwelling unit built on a chassis and designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site which it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location or jacks or other temporary or permanent foundation connections to utilities and the like. A travel trailer is not too be considered as a mobile home.

**357. Mobile Home Park.** A parcel or tract of land under single ownership which has been planned and improved for the placement of mobile homes for dwelling purposes.

**358. Nonconforming Use.** A building, structure or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

**359. Noncomplying.**

a. Any lot of record which does not contain sufficient lot area to conform to the area requirements for the zoning district in which the lot is located.

b. Any lawful building or other structure which does not comply with any one (1) or more of the applicable regulations, or

c. Any lawful use other than a nonconforming use, which does not comply with any part of any one (1) or more of the applicable regulations pertaining to:

1. Location along district boundary; or

2. Accessory off-street parking and loading;

Either the effective date of this ordinance or as a result of any subsequent amendment thereto.

**360. Planned Unit Development.** A planned residential, commercial or industrial development professionally designed as a unit, and approved by the Mountain City Planning Commission, on a site not less than two (2) acres and located in those areas zoned for its use.

**361. Principal Use.** The primary purpose of function that a lot serves or is intended to serve.

**362. Professional Office.** The office of a physician, dentist, attorney, architect, planner, accountant, or similar professions.

**363. Public Uses.** Public parks, schools, and administrative, cultural, and service buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

**364. Public Wastewater System.** A municipal, community or utility district water treatment and distribution system of a type approved by the State Department of Health and Environment.

**365. Public Water.** A municipal, community or utility district water treatment and distribution system of a type approved by the State Department of Health and Environment.

**366. Repair Garage.** A building where motor vehicles are repaired, rebuilt, reconstructed, painted or stored, for compensation.

**367. Required Yard.** That portion of a lot that is required by the specific district regulations to be open from the ground to the sky which may contain only explicitly listed obstructions.

**368. Right-of-Way.** The minimum right-of-way of all local streets.

**369. Shopping Center.** A group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the property, however this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand - four hundred (7,400) square feet of floor area. Shopping centers shall meet all requirements of the shopping center regulations as established by the Town of Mountain City.

**370. Sign, Billboard or other Advertising Device.** Any structure or part thereof or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or any representation used as, or which is in the nature of an announcement, direction or advertisement, the word "sign" includes the word "billboard" and "Posterboard" as well as any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city or other political unit. All signs fall under the definition of a structure as stated this ordinance.

**371. Special Exception.** A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions are made in this zoning code and only after approval has been granted by the Board of Zoning Appeals.

**372. 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 top most floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as storage.

**373. Street.** A public right-of-way set aside for public travel which:

- a. has been accepted for maintenance by the Town of Mountain City;
- b. has been established as a public street prior to the date of adoption of this ordinance; or

c. has been dedicated to the Town of Mountain City for public travel by the recording of a street plat or a plat of a subdivision which has been approved by the planning commission.

**374. Structure.** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

**375. 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 Mountain City Zoning Ordinance.

**376. Temporary Sign.** Temporary signs shall include any sign, banner, pennant, valance, light fabric cardboard, wallboard, or the light material, with or without frames, where either by reason of construction or purpose of sign is intended to be displayed for a short period of time only.

**377. Terminal.**

- a. a place where transfer between modes of transportation take place;
- b. a terminating point where goods are transferred from a truck to a storage area or to other trucks or picked up by other forms of transportation.

**378. Topography.** The configuration of a surface area showing relative elevations.

**379. Total Floor Area.** The area of all floors of a building including finished attic, finished basement and covered porches.

**380. Townhouse.** A townhouse is a single family dwelling unit attached by fire resistant common walls to other similar type units, each unit having an open space for light, air, and access in the front and rear.

**381. Toxic Materials.** Materials (gaseous, liquid, solid, particulate) which are capable of causing injury to living organisms even when present in relatively small amounts.

**382. Travel Trailer Park.** Any vehicle used, or so constructed as to permit its being used as conveyance upon the public streets or highway and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or

more persons, and designed for short term occupancy for frequent and/or extensive travel, and for recreational and vacation use, including camper trucks and self-propelled campers, etc.

**383. Travel Trailer Park.** Any plat of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupancy of such parks may not remain in the same trailer park more than thirty (30) days.

**384. Use.** The purpose for which land or a building or other structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

**385. Variance.** A variance is a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

**386. Yard.** An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance.

385.1. Yard. An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance.

385.2. Rear Yard. The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building including covered porches.

385.3. Side Yard. A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

**387. Zoning Map.** A map, or series of maps and special overlays the official copy being maintained at the Mountain City Town Hall, showing district and special districts that are established under the provisions of and are thereby, a part of this Ordinance.

#### ARTICLE IV. ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the Town of Mountain City, Tennessee is hereby divided into twelve (12) classes of districts as follows:

- R-1 District - Low Density
- R-1A District - Low Density
- R-2 District - Medium Density
- R-3 District - High Density
- R-4 District - Planned Residential Development (PRD)
- M-R District - Medical Residential
- B-1 District - Neighborhood Business
- B-2 District - Central Business
- B-3 District - Arterial Business
- B-4 District - Urban Corridor District
- M-1 District - Restricted Manufacturing Warehouse District
- M-2 District - Manufacturing Warehouse District

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Town of Mountain City, Tennessee," dated March 13, 1967 and all amendments thereof, which is a part of this ordinance and which are on file in the office of the Town Recorder. Unless otherwise specifically indicated on the map, the boundaries of districts are lot lines or the center lines of streets or alleys or such lines extended the corporate limit line or a line midway between the main tract of a railroad and the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.

#### ARTICLE V. APPLICATION OF REGULATIONS

Except as herein provided:

**501. Use.** No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

**502. Street Frontage.** No dwelling shall be erected on a lot which does not abut on least one (1) street for at least forty (40) feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the lot is at least fifty (50) feet in width at the building line.

**503. Corner Lots.** The minimum width of a side yard along an intersecting street shall be fifty (50%) percent greater than the minimum side yard requirements of the district in which the lot is located.

**504. One Principal Building on a Lot.** Only one (1) principal building and its customary accessory building may hereafter be erected on any lot.

**505. Reduction of Lot Size.** No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provision of this ordinance shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**506. Yard and Other Spaces.** No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

**507. Conformity to Subdivision Regulations.** No building permit shall be issued for, or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time.

**508. Customary Accessory Used in Residential Districts.** Accessory uses are permitted provided they are located in rear yards and no closer than five (5) feet to any property line. Accessory uses shall also comply with the setback from the intersecting street and not cover more than twenty (20) percent of any required rear yard.

**509. Building Area.** On any lot, within an R-1 Residential District, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30%) percent of the total area of such lot. In R-2 and R-3 Residential Districts, lots are occupied by all buildings including accessory buildings, shall not exceed thirty-five (35%) percent of the total area of such lot.

**510. Height and Density.** No building or structure shall hereafter be erected or altered so as to exceed the height limits, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

**511. Annexations.** All territory which may hereafter be annexed to the Town of Mountain City, Tennessee shall be considered to be in the R-1 Low Density Residential District until otherwise classified.

## ARTICLE VI. GENERAL PROVISIONS

**601. Continuance of Nonconforming Uses.** Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an

amendment thereafter may be continued although such use does not conform with the provisions of this ordinance with the following limitations:

601.1. No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

601.2. Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determined that the building is damaged to the extent of more than seventy-five (75%) percent of its appraised value for tax purposes in which cases any repair or reconstruction shall be in conformity with the provisions of this ordinance.

601.3. When a nonconforming use of any building or land has ceased for a period of one (1) year, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance.

**602. Obstruction of Vision at Street Intersections Prohibited.** On a corner lot in all districts except B-2 Central Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted within twenty (20) feet of the intersection of the right-of-way of streets or of streets and railroads.

**603. Off-Street Automobile Parking.** Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established except in the B-2 Central Business District. The number of automobile parking spaces provided, shall be at least as great as the number specified below for various uses. Each space shall have at least two hundred (200) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

603.1. Automobile repair garages. One (1) space for each regular employee plus one (1) space for each two hundred - fifty (250) square feet of floor space used for repair work.

603.2. Churches. One (1) space for each four (4) seats.

603.3. Clubs and Lodges. One (1) space for each two hundred (200) square feet of floor space over two thousand (2000) square feet.

603.4. Dwellings. One (1) space for each dwelling unit.

603.5. Funeral Parlors. One (1) space for each four (4) seats in the chapel.

603.6. Gasoline Service Stations and Similar Establishments. Two (2) spaces for each bay or similar facility plus one (1) space for each employee.

603.7. Hospitals and Nursing Homes. One (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

603.8. Hotel. One (1) space for each five (5) employees plus one (1) space for each three (3) guest rooms.

603.9. Industry. One space for each three (3) employees computed on the largest number of persons employed at any period during day or night.

603.10. Motels and Tourist Courts. One (1) space for each accommodation.

603.11. Offices.

- a. Medical - one (1) space for each three hundred (300) square feet of floor space.
- b. Other professional - one (1) space for each four hundred (400) square feet of floor space.
- c. General - one (1) space for each four hundred (400) square feet of floor space.

603.12. Places of Public Assembly. One (1) space for each six (6) seats in the principal assembly room or area.

603.13. Recreation and Amusement Areas Without Seating Capacity. One (1) space for each five (5) customers computed on maximum service capacity.

603.14. Restaurants. One (1) space for each four (4) employees plus one (1) space for each one-hundred (100) square feet of floor space devoted to patron use.

603.15. Retail Business and Similar Uses. One (1) space for each two hundred (200) square feet of gross floor space.

603.16. Schools. One (1) space for each faculty member plus one (1) space for each four (4) pupils except in elementary and junior high schools.

603.17. Mobile Home Parks. Shall meet the requirements of the Mountain City Mobile Home Park Ordinance.

603.18. Wholesale Business. One (1) space for each three thousand (3000) square feet of floor space plus one (1) space for each employee.

603.19. If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

603.20. Extension of Parking Space into a Residential District. Required parking space may extend up to one-hundred - twenty (120) feet into a residential zoning district, provided that: (1) the parking space adjoins a commercial or industrial district; (2) has its only exit to or from upon the same street as the property in the commercial or industrial district for which it provides the required parking space; and (3) is separated from abutting properties in the residential district by a plat or fence buffer strip as determined by the building inspector.

**604. Off-Street Loading and Unloading Space.** On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

604.1. Retail Business. One (1) space of at least 12 x 25 feet for each three thousand (3,000) square feet of floor area or part thereof.

604.2. Wholesale and Industrial. One (1) space of at least 12 x 50 feet for each ten thousand (10,000) square feet of floor area or part thereof.

604.3. Terminals. Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time.

**605. Flood Protection.** In order to provide for safe passage of flood waters, and to minimize flood damage, any structure proposed to be located in the floodplain of any stream or main drainage channel, (hereafter referred to as stream) within the Town of Mountain City must be approved by the Mountain City Planning Commission. The planning commission shall determine on the basis of watershed area and probably runoff, the opening needed for the stream and how close a structure may be built to the stream in order to assure adequate space for the flow of flood water. Any proposed building site or substantial improvement in location having a flood hazard must conform to the regulations established in the flood control ordinance for the Town of Mountain City, Tennessee.

## **606. Planned Unit Development**

606.1. Purpose. The purpose of the Planned Unit Development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified development standards under a comprehensive plan and program professionally prepared. The Planned Unit Development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve lasting values, economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulation and the general well being of the inhabitants.

606.2. Location: A PUD may be located within any residential, commercial or industrial district provided that the density and use requirements of the district in which such a PUD is to be located are adhered to and provided that the PUD plan has been reviewed and recommended for approval by the Mountain City Regional Planning Commission.

606.3. Permitted Uses in PUD's. Any use permitted in that district in which the PUD is to be located.

606.4. Height and Area Regulations. No building shall exceed three (3) stories or thirty-five (35) feet in height except that a conditional permit may be granted by the Board of Zoning Appeals for the construction of structures exceeding their limits provided the following conditions are met:

606.4.1. There is at least six inch water line serving the site.

606.4.2. Fire hydrants are installed so that all buildings can be reached with a two hundred - fifty (250) feet hose.

606.4.3. There is an internal fire protection system in each structure over three (3) stories or thirty-five (35) feet, which will meet all applicable ordinances as established in the Mountain City Fire Code.

606.4.4. The structure shall be built of fire resistant material.

606.4.5. The stairwell doors shall be of fireproof construction and open directly out of the main hallway.

606.4.6. Exit lights shall be placed at all doors leading out of the buildings and all stairwells. All doors that are used as a means of egress from a building shall swing outward and shall be equipped with panic bars.

606.4.7. The total number of dwelling units may not exceed the density allowed in that district.

606.4.8. For every one (1) foot of additional height over thirty-five (35) feet, the structure shall be setback one (1) additional foot from all property and/or building lines, as specified elsewhere in these regulations.

606.5. The minimum development site for a residential PUD shall be at least two (2) acres unless otherwise approved by the planning commission.

606.6. No free standing building shall be closer than twenty (20) feet to any other freestanding building and no closer than twenty-five (25) feet to the exterior property line.

606.7. Off-street Parking Regulations. Off-street parking shall be provided on a site convenient to the building in accordance with the following requirements.

606.7.1. Residential

606.7.1.1. There shall be at least two (2) spaces per dwelling unit for townhouses, duplexes, and single family dwellings.

606.7.1.2. There shall be at least one and one-half (1 ½) spaces per dwelling unit for apartment houses.

606.7.1.3. There shall be at least one (1) space for each four (4) seats in the main auditorium of churches and other public buildings.

606.7.1.4. Parking spaces for parks, playgrounds, and community buildings in the development may be required according to the design of the Planned Unit Development.

606.7.2. Commercial and Industrial. There shall be at least one (1) parking space for each three hundred (300) square feet of floor space.

606.7.3. Loading/Unloading Space for Commercial/Industrial. There shall be one (1) space at least three hundred (300) square feet in size for each seven thousand (7000) square feet of gross floor area.

## 606.8. General Provisions:

606.8.1. Relationship to the Subdivision Regulations. The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the Major Thoroughfare Plan, Mountain City, Tennessee, together with provisions for street improvements shall generally comply with standards set forth in the subdivision regulations. However, the uniqueness of each proposal for a planned unit development may require that specifications for the width and surfacing of streets, public utility rights-of-way, curbs and other standards may be subject to modification from the specifications established in the subdivision regulations.

Upon application by the landowner and good cause shown, the planning commissions may permit changes or alterations of such standards which are consistent with the spirit and intent of this section. Modifications may be incorporated only with the approval of the planning commission as a part of its review of the development and granted as a variance in the preliminary approval of the subdivision plan which is concurrent with the final approval by the planning commission of the development plan.

606.8.2. Combination of Separate Types of Planned Unit Development. The Mountain City Planning Commission may consider separate types of planned unit developments (such as residential and commercial planned unit development-general) within a consolidated development plan as a single administrative procedure provided the total tract is under single ownership of a landowner, as defined by this article and the land area is sufficient to comply with the separate requirements combined.

### 606.8.3. Development Standards and Site Improvements.

606.8.3.1. Minimum Elevations. All lots shall have a building area above the one-hundred (100) year flood stage as delineated on the maps and profiles drawn by the Department of Housing and Urban Development.

606.8.3.2. Streets may not be at an elevation less than one (1) foot below the flood level given above.

### 606.8.4. Site Improvements

606.8.4.1. Minimum Elevations. All lots shall have a building area above the one-hundred (100) year flood stage as delineated on the maps and profiles drawn by the Department of Housing and Urban Development.

606.8.4.2. There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be four (4) feet.

606.8.4.3. Storm drainage structures shall be constructed in accordance with plans and specifications approved by the planning commission.

606.8.4.4. Any planned unit development to be constructed within Mountain City shall be served by a sanitary sewer.

606.8.4.5. For the prevention of noise, improvement of visual character and a generally more pleasing environment, adequate landscaping and screening shall be required by the planning commission and shown on the planned unit development plan.

606.8.4.6. Each PUD shall be limited to one (1) major business sign and any number of small accessory business signs. All small accessory signs shall be a face sign attached to a building and shall not project above the building.

606.8.5. Building Construction. No multi-family structure in a PUD shall have more than four (4) continuous apartment units that are not separated by fire resistant construction.

606.8.6. Density. Areas designated for the site of schools, churches and other public buildings cannot be used when computing allowed densities. However, the open space around these sites can be so computed.

606.8.7. Open Space Requirements.

606.8.7.1. Residential. On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD and should therefore be easily accessible to them. If the PUD is to be of individually owned units this space shall be maintained in common ownership, established in the appropriate legal manner.

606.8.7.2. Commercial and Industrial

606.8.7.2.1. Commercial and industrial planned unit development shall meet all open space requirements as established by this ordinance.

606.8.7.2.2. All open space shall be landscaped and all such landscaping shall be shown in the planned unit development plan.

606.8.7.3. Said open space shall be established in the appropriate legal manner and maintained in one of the following methods:

606.8.7.3.1. By the developer or management authority of the PUD.

606.8.7.3.2. By homeowners association established by deed restrictions.

#### 606.8.8. Staging

606.8.8.1. The applicant may elect to develop the site in successive stages in a manner indicated in the Planned Unit Development plan; however, each such stage shall be substantially complete within itself.

606.8.8.2. The planning commission may require that development be done in stages if public facilities are not adequate to service the entire development initially.

#### 606.8.9. Changes and Modifications

606.8.9.1. Major changes. Major changes in the planned unit development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 606.10.

606.8.9.2. Minor changes. Minor changes in the planned unit development plan may be approved by the planning commission provided that such changes:

606.8.9.2.1. Do not increase the densities;

606.8.9.2.2. Do not change the outside (exterior) boundaries;

606.8.9.2.3. Do not change any use;

606.8.9.2.4. Do not materially change the location on amount of land devoted to specific land uses;

606.8.9.2.5. Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developers.

606.9. Application Procedure for Planned Unit Development:

To obtain a Special Conditions Permit to develop a planned unit development, the developer shall submit a preliminary planned unit development plan to the Mountain City Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one (1) inch equals one-hundred (100) feet and shall:

606.9.1. Define the location, size, accessibility, and existing zoning of the proposed site;

606.9.2. Indicate the surrounding type of development and land use;

606.9.3. Set forth the type of development proposed, the density of the proposed development, and the location of all structures, parking areas, and open space.

606.9.4. Show a plan for streets, thoroughfares, public utilities, schools and other public or community uses.

606.9.5. In addition to the above, the planning commission may require such other additional information as may be determined necessary to adequately review the proposed development.

606.9.6. No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property constrained within the area encompassed by the final PUD plan which is to be subdivided. The building inspector shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with.

606.9.7. The final PUD plan shall conform to the preliminary PUD plan and shall include the following items, if applicable; such items, and in such format, as may

be required according to procedures adopted and published by the Mountain City Planning Commission.

606.9.8. Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not been adhered to; provided however that for good cause shown, said special conditions permit may be extended for additional periods not to exceed one (1) year.

**607. Site Plan Review.** In order to maintain the aesthetic characteristics of the community and protect the safety and welfare of its citizens, site plans shall be required for all new multi-family housing, business and industrial construction. These plans shall include the proposed location of all structures, off street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plan shall be reviewed and approved by the planning commission.

#### ARTICLE VII. PROVISIONS GOVERNING USE DISTRICTS

**701. R-1 (Low Density) Residential District.** It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life, and to prohibit all business activities.

In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the Town of Mountain City Tennessee, the following uses are permitted:

701.1. Single and two (2) family dwellings excluding mobile homes;

701.2. Customary general farming;

701.3. Customary home occupation provided that there is no external evidence of the occupation except an announcement sign not more than two (2) square feet in area, that only one (1) person, not a resident of the dwelling is employed and not more than twenty-five (25%) percent of the total floor area of the dwelling is used.

701.4. Public owned buildings and uses, public and private schools offering general education, and churches provided that:

701.4.1. The location of these uses shall first be reviewed by the Mountain City Planning Commission.

701.4.2. The buildings are placed not less than fifty (50) feet from the side and rear property lines;

701.4.3. There are planted buffer strips alongside and rear lines.

701.5. Bed and Breakfast Facilities provided that:

701.5.1. The house in which the Bed and Breakfast facility is to be located shall have a minimum of at least one thousand - eight hundred (1,800) square feet and must be owner occupied.

701.5.2. The house must be at least twenty (20) years old at the time of the passage of this amendment;

701.5.3. The serving of meals for compensation in the house is limited to breakfast for registered tourist guests;

701.5.4. There shall be no more than twelve (12) registered guests at any one time and the owner shall keep a current guest register.

701.5.5. Signs shall be limited to one (1) sign not exceeding three (3) square feet which must be attached to the building.

701.5.6. The site plan for the proposed facility must be reviewed and approved by the planning commission.

701.5.7. The site plan for the proposed facility must be reviewed and approved by the fire department.

**702. R-1A Low Density Residential District.** Same intent and standards of the R-1 District except that single family residences on sanitary sewers have a minimum lot size of twelve thousand (12,000) square feet, and the minimum side yard is ten (10) feet.

**703. R-2 Medium Density Residential District.** It is the intent of this district to provide for single family and multi-family dwellings, to encourage development and continued use of and for residential purposes, to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district.

703.1. Any use permitted in the R-1 Residential District, provided that the floor area used for the taking of boarders and tourists or the leasing of rooms by the family

resident on the premises may not exceed sixty (60) percent of the total floor area of any dwelling.

703.2. Multiple family dwellings are permitted on review by the Mountain City Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to preserve and protect the character of Mountain City; and provided that no permit shall be issued without the written approval of the Board of Zoning Appeals and subject to the following minimum standards:

703.2.1. A complete site plan showing the location of all buildings, courts, recreational areas, drives, and walkways, parking lots, refuse disposal containers, drainage system and easements, and landscaping details.

703.2.2 They are located on a lot containing a minimum of three (3) acres.

703.2.3. The buildings are placed not less than fifty (50) feet from the side and rear lot lines.

703.2.4. There is a minimum ten (10) foot landscaped and planted buffer strip along the side and rear lot line.

703.2.5. There are not more than eight (8) units p3r gross acre.

703.2.6. Minimum Lot Size - twelve thousand (12,000) square feet plus ten thousand (10,000) square feet for the second and each additional unit, width in feet - seventy (70) feet.

703.2.7. Minimum Yard Size

Front Yard - thirty (30) feet

Rear Yard - twenty (20) feet

Side Yard - ten (10) feet

703.2.8. Maximum Building Height.

Height in stories - three (3)

Height in feet - thirty-five (35)

703.3. Funeral homes, fraternal organizations and clubs not operated for profit, offices for doctors, lawyers, dentists, architects, real estate agencies and insurance agencies provided that:

703.3.1. They shall be located on designated arterial or collector streets;

703.3.2. The building shall be placed not less than fifty (50) feet from all property lines;

703.3.3. There is a planted buffer strip erected on side and rear property lines.

703.4. Day Care Centers provided the following conditions are met:

703.4.1. A site plan for the day care center is reviewed and approved by the planning commission.

703.4.2. A letter of approval by the Tennessee Department of Home Services is provided;

703.4.3. Minimum side yards of at least thirty (30) feet shall be maintained.

703.4.4. One (1) parking space per employee shall be maintained.

703.4.5. A planted buffer strip shall be maintained between the day care center and all residential lots.

**704. R-3 High Density Residential District.** It is the intent of this district to provide an area for single and multi-family dwelling, to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the Zoning Map of the Town of Mountain City, Tennessee, the following uses are permitted:

704.1. Any use permitted in R-2 Residential District.

704.2. Mobile home parks provided that they conform to requirements of the Mobile Home Park Ordinance of the Town of Mountain City.

704.3. Mobile homes on single lots.

**705. M-R Medical Residential District.** It is the intent of this district to provide an area for residential and medical facilities and to continue the use of land within this district for this purpose to prohibit the use of land for business and/or industrial activities and other land use which would interfere with the character of this medical residential district, as shown on the Zoning Map of the Town of Mountain City, Tennessee. Within this district the following uses are permitted:

705.1. Single family and two (2) family dwellings;

705.2. Hospitals and nursing homes provided that:

705.2.1. A complete site plan showing the location of all building courts, recreational areas, drives and walkways, parking lots, points of ingress and egress, refuse disposal containers, drainage system and easements and landscaping details.

705.2.2. The buildings are placed not less than fifty (50) feet from the side and rear yard lot lines.

705.2.3. There is a minimum ten (10) foot landscaped and planted buffer strip along the side and rear lot lines.

705.2.4. They shall be located on designated arterial and collector streets as provided for in the major thoroughfare plan.

705.2.5. One (1) parking space for each six (6) beds plus one (1) parking space for each visiting doctor and one (1) parking space for each staff member.

705.2.6. An adequate number of fire hydrants and street lights to meet safety requirements as deemed necessary by the board of zoning appeals.

705.2.7. They are located on a lot containing a minimum of five (5) acres.

705.3. Medical and dental clinics and offices for the following professional occupations: Physicians, dentists, physical therapists, chiropractor, optometrist, osteopath, provided that:

705.3.1. A complete site plan showing the location of the building, drives, walkway, parking lots, points of ingress and egress, refuse disposal containers, drainage system and easements and landscaping details.

705.3.2. The building is placed not less than fifty (50) feet from the side and rear yard lot lines.

705.3.3. There is a minimum ten (10) foot landscaped and planted buffer strip along the side and rear lot lines.

705.3.4. There shall be one (1) parking space for each three hundred (300) square feet of floor space.

705.4. Publicly supported low income housing for the elderly provided that:

705.4.1. Density requirements shall not exceed those found in R-3 (High Density) Residential Districts.

705.4.2. A complete site plan submitted to and approved by the Mountain City Planning Commission showing the location of the building, drives, walkways, parking lots, points of ingress and egress, refuse disposal containers, drainage system and easements and landscaping details.

705.4.3. The building is placed not less than fifty (50) feet from the side and rear yard lot lines.

705.4.4. There is a minimum ten (10) foot landscaped and planted buffer strip along the side and rear lot lines.

705.4.5. There shall be a minimum of one (1) parking space for each two (2) residential units.

705.4.6. They shall be located on a lot containing not less than five (5) acres.

**706. Planned Residential Development.** The regulations established in this section for a Planned Residential District are intended to provide optional methods of land development which encourage imaginative solutions to environmental design problems. A planned development permits design innovation, encourages a maximum choice of types of environment, and optional methods of land development which encourage imaginative solutions to environmental design problems. The goal is a development plan in which buildings, land use, transportation facilities, utility systems and open spaces are integrated through overall design. The planned development permits the placement of buildings on land without adherence to conventional lot approach common to traditional zoning. By planning the total parcel rather than the single lot, flexibility is provided in the building site, thereby permitting a mixture of housing and building types and uses as well as the grouping of units to create more usable open space for the preservation of significant natural features.

706.1. This section hereby establishes a Planned Residential District (PRD). This district shall be shown on the Zoning Map of Mountain City, Tennessee and shall be established as follows:

706.1.1. A request for a planned residential district shall not become effective unless it is first submitted to the Mountain City Planning Commission for approval or disapproval.

706.1.2. From and after the approval of any zone for a planned development district, it shall be unlawful to commence the filling or leveling of any land or the excavation for, or the construction of any building including accessory buildings, until such time as the owner or developer of the proposed development has submitted and received approval of a comprehensive development plan by the Mountain City Planning Commission.

706.2. Permitted Uses. The purpose of the planned residential district is to permit optional methods of residential development. This zone would permit development to other than the traditional single lot development yet maintain the character of a neighborhood. The PRD classification may be utilized to promote flexibility in the design of a planned residential development while maintaining the current residential integrity of the surrounding development.

706.2.1. The following uses are permitted in the Planned Residential Development District: single family attached and detached dwellings, two (2) family dwellings, multi-family dwellings and their customary accessory structures. Mobile homes are not an allowed use in this zone.

706.2.2. The minimum development site for a planned residential district shall be at least five (5) acres.

**707. B-1 Neighborhoods Business District.** It is the intent of this district to establish business areas to serve the surrounding residential districts. The neighborhood business district is intended to discourage strip business development and to encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 Neighborhood Business District as shown on the Zoning Map of the Town of Mountain City, Tennessee, the following uses are permitted:

707.1. Any use permitted in the R-3 Residential District, except for mobile home parks.

707.2. Shopping Centers.

707.3. Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, banks, laundromats, and laundry pick-up stations, restaurants, and similar uses.

707.4. Business signs provided that all signs shall be erected flat against the front side of a building or within two (2) feet, (24) inches, thereof. All signs shall not project above buildings not having flashing intermittent or moving illumination.

707.5. Gasoline service stations provided that all structures, including underground storage tanks, shall be placed not less than twenty (20) feet from all property lines. Points of ingress and egress shall not be less than fifteen (15) feet from intersection of street lines.

**708. B-2 Central Business District.** It is the intent of this district to establish an area for concentrated general business development that the general public requires. The requirements are designed to protect the essential characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, wholesale developments which do not lend themselves to pedestrian traffic. In order to achieve the intent of the B-2 (Central Business District), as shown on the Zoning Map of the Town of Mountain City, Tennessee, the following uses are permitted:

708.1. Any use permitted in the Neighborhood B-1 Business District except for single family residences and mobile homes.

708.2. Apartments. Apartments provided one (1) off street parking space is provided for each dwelling use and provided that the density requirements of the R-1 (Residential) District are met.

708.3. Stores and shops conducting retail business.

708.4. Personal, business and professional services.

708.5. Public and semi-public buildings and uses provided that public and semi-public buildings and uses shall first be reviewed by the Mountain City Planning Commission.

708.6. Business signs, parking lots and garages, and advertising signs.

708.7. Offices, lodges and clubs, hotels and motels, restaurants and similar community services.

708.8. Places of amusement and assembly.

708.9. Self-Service Storage Facility and Indoor Climate-Controlled Storage Facility. (Amended by Ord. No. 1784, 11/01/2022).

**709. B-3 (Arterial) Business District.** It is the intent of this district to establish areas in which the principal use of land is devoted to commercial establishments which caters specifically to the needs of motor vehicles. This district should provide for the orderly development and concentration of highway and arterial commercial uses at appropriate locations, and should keep traffic congestion to a minimum. In order to achieve the intent of the B-3 (Arterial) Business District, as shown on the Zoning Map of the Town of Mountain City, Tennessee, the following uses are permitted:

709.1. Any use permitted in the B-2 Central Business District.

709.2. Hotels and motels.

709.3. Auto and mobile home sales and services.

709.4. Restaurants.

709.5. Offices.

709.6. Places of amusement and assembly.

709.7. Funeral homes.

709.8. Public and semi-public buildings and uses.

709.9. Travel trailer parks.

709.10. Lodges and clubs.

**710. B-4 Urban Commercial District.** It is the intent of this district to encourage the use of property for commercial and residential purposes and to provide for special protection to areas not in the district but highly influenced by its development.

710.1. Site plans shall be required for all new construction. The site plan shall be reviewed and approved by the Mountain City Planning Commission. Development of property in this district shall be subject to the following standards:

710.1.1. The rear yard setback requirement on parcels of one (1) acre or less shall be thirty (30) feet.

710.1.2. The rear yard setback requirement on parcels greater than one (1) acre shall be forty (40) feet.

710.1.3. There shall be a minimum of twenty (20) feet natural landscape buffer on the rear perimeter of parcels of one (1) acre or less and a minimum thirty (30) feet side yard setback requirements on parcels of more than one (1) acre. A twenty (20) foot natural landscape buffer shall be maintained.

710.1.4. There shall be a minimum of thirty (30) feet side yard setback requirements on parcels of more than one (1) acre. A twenty (20) foot natural landscape buffer shall be maintained and meet the same standards as provided for in Section 710.1.3.

710.1.5. There shall be no more than one (1) freestanding sign on each parcel. The sign shall not exceed twelve (12) feet in height. Sign face area shall not exceed a proposed maximum of seventy (70) square feet. The Mountain City Board of Zoning Appeals will consider applications for a variance from this standard for shopping centers. All other standards of the Mountain City Sign Ordinance shall be met.

710.2. Uses permitted include:

710.2.1. Any use permitted in the R-3 (High Residential) District except manufactured homes and manufactured home parks.

710.2.2. Shopping centers, grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, restaurants and similar uses as determined by the Mountain City Planning Commission.

710.2.3. Stores and shops conducting retail business.

710.2.4. Public and semi-public buildings and uses.

710.2.5. Hotels and motels, and similar services.

**711. M-1 (Manufacturing Warehouse) Restricted Manufacturing and Warehouse District.**

This industrial district is established to provide areas in which the principal use of land is for light manufacturing and warehousing. It is the intent that permitted uses are conducted so that any excessive noise, odor, dust and glare of an operation be completely confined within an enclosed building. These regulations are intended to prevent friction between uses within the district and also to protect nearby residential districts, as shown on the Zoning Map of the City of Mountain City, Tennessee, the following uses are permitted:

711.1. Any use permitted in a Business District except residential units.

711.2. Bakers, bottling works; cabinet making, carpenters shop, clothing manufacturers, dairy, electrical welding, fruit making or packing, ice plant, laundry, machine shop, milk distribution stations, optical goods, paper boxes and pencil manufactures, printing, publication or engraving concern; tinsmith shop, trucking terminal, and warehouses.

711.3. Other uses of the same general character as those listed above deemed appropriate by the Mountain City Planning Commission.

711.4. No yard will be required for that part of the lot which fronts on a railroad siding.

711.5. On lots that abut a residential district the Mountain City Planning Commission may require all buildings and improvements to be properly screened and shall be located so as to comply with the side yard requirements of the adjacent residential district.

711.6. Any structure or equipment essential to the operation shall be setback so as not to visually or physically obstruct a public way.

**712. M-2 (Manufacturing Warehouse) District.** This industrial district is established to provide areas in which the principal use of land is for manufacturing and warehousing. These regulations are intended to prevent friction between uses within the district and also to protect nearby residential districts, as shown on the Zoning Map of the Town of Mountain City, Tennessee, the following uses are permitted:

712.1. Any use permitted in B-1 (Neighborhood) Business District or B-2 (Central) Business except residences and day care centers.

712.2. Wholesale businesses, warehouses, storage yards and buildings.

712.3. Any industry which is not deemed to cause injurious or obnoxious noise, smoke, gas, fumes, or other objectionable conditions.

712.4. Methadone Treatment Clinic or Facility, Substance Abuse Treatment Facilities

712.4.1. The consideration for approval by the Planning Commission of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

712.4.2. Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for Use of Review approval along with the license of the applicant, certificate of need, site

plan, survey, or other information deemed reasonable by the Planning Commission for use in making a thorough evaluation of the proposal.

712.4.3. The clinic or facility shall be located on and have access to a Principal Arterial Street.

712.4.4. Measurement shall be made in a straight line on the Mountain City Zoning Map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses:

712.4.4.1. The clinic or facility shall not be located within one thousand (1,000) feet of a school, day care facility, park, church, synagogue, mosque, mortuary or hospital.

712.4.4.2. The clinic or facility shall not be located within one thousand (1,000) feet of any establishment that sells alcoholic beverages for either on or off premises consumption.

712.4.4.3. The clinic or facility shall not be located within one thousand (1,000) feet of any area devoted to public recreation activity.

712.4.4.4. The clinic or facility shall not be located within one thousand (1,000) feet of any amusement catering to family entertainment.

712.4.4.5. The site shall not be less than one thousand (1,000) feet of any residential dwelling at the time of approval.

712.4.4.6. The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility.



# ARTICLE VIII. AREA, YARD AND HEIGHT REQUIREMENTS

District	Minimum Lot Size Square Feet		Lot Width at Building Site	Minimum Yard Requirements from Property Lines			Maximum Height of Structures		Building Area
	Single Family	Per Additional Family		Front	Side Each Side	Rear	Stories	Feet	
R-1*	15,000	10,000	75	30	10	20	3	35	30
R-1A*	12,000	10,000	75	30	10	20	3	35	30
R-2	12,000	10,000	70	30	10	20	3	35	30
R-3	7,500 For two family dwellings plus 2,000 for each additional unit.	15,000	50	30	7 ½	20	3	35	40
PRD	See Section 706.								
M-R	(Medical Residential) for residential purposes same as R-1 for single family and two family dwellings and same as R-3's residential for publicly supported lot income for the elderly. All other uses require 50 foot setback from side and rear property lines.								
B-1	None	None		25	10	20**	3	35	
B-2	None	None		None	None	None	3	35	
B-3	10,000	****	75	40***	10***	10***	3	35	
B-4	See Section 710.								
M-1				30	20	25	3	35	
M-2				30	20	25	3	35	

All lots except in Districts B-1, B-2, and B-3, located within the city limits of Mountain City shall have a 30 feet front yard setback.

\*R-1 & R-1A limits to no more than two families per lot.

\*\*The minimum width of the side yard along an intersecting street shall be 30 feet.

\*\*\*The depth which abuts a residential district shall not be less than 50 feet.

\*\*\*\*The width which abuts a residential district shall no be less than 50 feet.

\*\*\*\*\*Accessory Structures in Residential Districts shall be located in the rear and have a setback of 5' along all property lines except for intersecting streets and the setback shall be 7.5' from the side yard and not cover more than 20% of the rear yard.

## ARTICLE IX. EXCEPTIONS AND MODIFICATIONS

**901. Lot of Record.** Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time 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 Board of Zoning Appeals for a variance from the terms of this ordinance, in accordance with variance provisions established by this ordinance. Such lots may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.

**902. Adjoining and Vacant Lots of Record.** A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this ordinance, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of this ordinance.

**903. 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 one-hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depths of the developed lots.

**904. Group Housing Projects.** In the case of a group housing project of two (2) or more buildings to be constructed on a plot of ground of at least one (1) acre not subdivided into the customary streets and lots, and which will; not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual building units in such housing projects, a special exception to the terms of this ordinance may be made by the Board of Zoning Appeals in a manner that will be in harmony with the character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this ordinance in the district in which the project is to be located. However in no case shall the Board of Zoning Appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district or a greater height, or a larger coverage than the requirements of this ordinance permitted in such a district.

## ARTICLE X. ENFORCEMENT

**1001. Enforcing Officer.** The provisions of this ordinance shall be administered and enforced by a Building Inspector appointed by the Mayor and approved by the Board of Mayor and Aldermen, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

**1002. Building Permit Required.** It shall be unlawful to commence excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, until the Building Inspector has issued a building permit for such work.

**1003. Issuance of a Building Permit.** 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, height, and location on the lot of all buildings to be erected, altered or moved and of any building already on the lot. He 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. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this ordinance and other ordinances of the Town of Mountain City, then in force, the Building Inspector shall state such refusal in writing with the cause.

1003.1. The issuance of permit shall in no case be construed as waiving any provision of this ordinance.

1003.2. A building permit 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.

**1004. Certificate of Occupancy.** No land or building or part thereof hereafter erected or altered in its use or 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 five (5) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make final inspection thereof and to issue a certificate of occupancy of the land, building or part thereof and the proposed use thereof are found to conform with the provisions of this ordinance; or if such certificate is refused, to state such refusal in writing with the cause.

**1005. Records.** A complete record of such application sketches and plans shall be maintained in the office of the Building Inspector.

**1006. 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) dollars nor more than fifty (\$50.00) dollars for each offense. Each day a violation continues shall constitute a separate offense.

**1007. 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 of 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.

## ARTICLE XI. BOARD OF ZONING APPEALS

**1101. Creation and Appointment.** A Board of Zoning Appeals is hereby established in accordance with Section 13-7-205, Tennessee Code Annotated. The Mountain City Planning Commission is hereby designated as the Board of Zoning Appeals. It shall be appointed by the Mayor of the town and confirmed by the majority vote of the Board of Mayor and Aldermen. The term of individual membership shall be co-terminus with appointments on the Mountain City Planning Commission.

**1102. 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. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record.

**1103. Appeals. How Taken.** Any appeal to the Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by a governmental office, department, board, or bureau affected by a 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 appeals, give public notice thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. Upon the hearing any person or party, may appeal and be heard in person or by agent or by attorney.

**1104. Powers.** The Board of Zoning Appeals shall have the following powers:

1104.1. 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.

1104.2. Special Exceptions. To hear and decide applications for special exceptions upon which the Board of Zoning Appeals is specifically authorized to pass.

1104.3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where, by reason or exceptional topographic conditions or other extraordinary or exceptional situations or conditions of a piece of property the strict application of the provisions of this

ordinance would result in exceptional practical difficulties to or exceptional and 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 purpose of this ordinance. In granting a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed buildings, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. Before any variance is granted it shall be shown that special circumstances are attached to the property which does not generally apply to other property in the neighborhood.

## ARTICLE XII. AMENDMENT

The Board of Mayor and Aldermen may amend the regulations, restrictions, boundaries, or any provision of this ordinance. Any member of the Board of Mayor and Aldermen may introduce such amendment, or any official, board or any other person may present a petition to the Board of Mayor and Aldermen requesting an amendment or amendments of this ordinance.

No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the Planning Commission. If the Planning Commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen to become effective. If the Planning Commission neither approves nor disapproves such proposed amendment within thirty (30) days after such submission the action of such amendment by said commission shall be deemed favorable.

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

### ARTICLE XIII. LEGAL STATUS PROVISIONS

**1301. 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 Town of Mountain City, the most restrictive shall in all cases apply.

**1302. Validity.** In any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

**1303. Effective Date.** This ordinance shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it.

Certified by Planning Commission: January 25, 2007

Passed on First Reading: \_\_\_\_\_

Passed on Second Reading: \_\_\_\_\_

Approved and Signed In Open Meeting: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form: \_\_\_\_\_  
City Attorney

Attest: \_\_\_\_\_  
City Recorder

**Appendix A**  
**Ordinance 968**  
**Adult-Oriented Establishments**

**A-101. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the content:

- (1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members ( regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- (2) "Adult bookstore" means an establishment receiving at least 20% of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVD's films and other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- (3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

- (4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.
- (5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material, including swim suites, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.
- (6) "Board of Mayor and Aldermen" means the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee.
- (7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.
- (9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, display of adult-oriented images or performances derived or taken from the internet, displays or dance or any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.
- (10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.
- (11) "Specified sexual activities" means:

- (a) Human genitals in a state of actual or simulated sexual stimulation or arousal;
  - (b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;
  - (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (12) "Specified anatomical areas" means:
- (a) Less than completely and opaquely covered:
    - (1) Human genitals, public region;
    - (2) Buttocks;
    - (3) Female breasts below a point immediately above the top of the areola; and
  - (b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

**A-102. License required.**

(1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Mountain City without first obtaining a license to operate issued by the Town of Mountain City.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises are lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

**A-103. Application for license.**

- (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the Town of Mountain City. The application shall be filed in triplicate with and dated by the Police Chief. A copy of the application shall be distributed promptly by the Police Chief to the City Recorder and to the applicant.
- (2) An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of an corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:
  - (a) Name and addresses, including all aliases.
  - (b) Written proof that the individual(s) is at least eighteen (18) years of age.
  - (c) All residential addresses of the applicant(s) for the past three (3) years.
  - (d) The applicants' height, weight, color of eyes and hair.
  - (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
  - (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
  - (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleading of nolo contendere on all charges, except minor traffic violations.
  - (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
  - (i) The address of the adult-oriented establishment to be operated by the applicant(s).
  - (j) The name and address of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which

such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
  - (l) The length of time each applicant has been a resident of the Town of Mountain City, or its environs, immediately preceding the date of the application.
  - (m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.
  - (n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
  - (o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.
  - (p) Evidence in form deemed sufficient to the city that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Mountain City Police Department, the Police Chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the Police Chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the Board of Mayor and Aldermen.
- (4) Whenever an application is denied or held for further investigation, the Police Chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the Board of Mayor and Aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The Board shall hear evidence as to the basis of

the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the Board of Mayor and Aldermen and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Johnson County, Tennessee, within (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Police Chief.

**A-104. Standards for issuance of license.**

- (1) To receive a license to operate an adult- oriented establishment, an applicant must meet the following standards;
  - (a) If the applicant is an individual:
    - (i) The applicant shall be at least eighteen (18) years of age.
    - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
    - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
  - (b) If the applicant is a corporation;
    - (i) All officers, director and stockholders required to be named under §A-103 shall be at least eighteen (18) years of age.
    - (ii) No officer, director or stockholder required to be named under §A-103 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.
  - (c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest;

- (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
  - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
  - (iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (2) No license shall be issued unless the Mountain City Police Department has investigated the applicant's qualification to be licensed. The results of that investigation shall be filed in writing with the Police Chief no later than twenty (20) days after the date of the application.

**A-105. Permit required.** In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the Police Chief.

**A-106. Application for permit.**

- (1) Any person desiring to secure a permit shall make application to the Police Chief. The application shall be filed in triplicate with and dated by the Police Chief. A copy of the application shall be distributed promptly by the Police Chief to the City Recorder and to the applicant.
- (2) The application for a permit shall be upon a form provided by the Police Chief. An applicant for a permit shall furnish the following information under oath;
  - (a) Name and address, including all aliases.
  - (b) Written proof that the individual is at least eighteen (18) years of age.
  - (c) All residential addresses of the applicant for the past three (3) years.
  - (d) The applicant's height, weight, color of eyes, and hair.
  - (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
  - (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity

- or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
  - (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
  - (i) The length of time the applicant has been a resident of the Town of Mountain City, or its environs, immediately preceding the date of the application.
  - (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Mountain City Police Department, the Police Chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the Police Chief shall advise the applicant in writing whether the application is granted or denied.
- (4) Whenever an application is denied or held for further investigation, the Police Chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days or receipt of notification of denial, a public hearing shall be held thereafter before the Board of Mayor and Aldermen at which time the applicant may present evidence bearing upon the question.
- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Police Chief.

**A-107. Standards for issuance of permit.**

- (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards;
- (a) The applicant shall be at least eighteen (18) years of age.

- (b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.
- (c) The application shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.
- (2) No permit shall be issued until the Mountain City Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the Police Chief not later than twenty (20) days after the date of the application.

**A-108. Fees.**

- (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.
- (2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.

**A-109. Display of license or permit.**

- (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Mountain City Police Department, or any person designated by the Board of Mayor and Aldermen.

**A-110. Renewal of license or permit.**

- (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Police Chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Police Chief. A copy of the application for renewal shall be distributed promptly by the Police Chief to the City Recorder and to the operator. The application for renewal shall be a form provided by the Police

Chief and shall contain such information and data, given under oath or affirmation, as may be required by the Board of Mayor and Aldermen.

- (2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (3) If the Mountain City Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Police Chief.
- (4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the Police Chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the Police Chief. A copy of the application for renewal shall be distributed promptly by the Police Chief to the City Recorder and to the employee. The application for renewal shall be upon a form provided by the Police Chief and shall contain such information and data, given under oath or affirmation, as may be required by the Board of Mayor and Aldermen.
- (5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.
- (6) If the Mountain City Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the Police Chief.

**A-111. Revocation of license or permit.**

- (1) The Police Chief shall revoke a license or permit for any of the following reasons;
  - (a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council

pursuant to this chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

- (c) The operator or employee becomes ineligible to obtain a license or permit.
  - (d) Any cost or fee required to be paid by this chapter is not paid.
  - (e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
  - (f) Any intoxication liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
  - (g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
  - (h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.
  - (i) Any operator allows continuing violations of the rules and regulations of the Johnson County Health Department.
  - (j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.
  - (k) Any minor is found to be loitering about or frequenting the premises.
- (2) The Police Chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days written notice of the charges against him or her and the opportunity for a public hearing before the Board of Mayor and Alderman at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.
- (4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be

used as an adult-oriented establishment for two (2) years from the date or revocation of the license.

**A-112. Hours of operation.**

- (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.
- (2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Mountain City Police Department, the Johnson County Sheriff's Department, or such other persons as the Board of Mayor and Aldermen may designate.

**A-113. Responsibilities of the operator.**

- (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the Board of Mayor and Aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Mountain City Police Department at all reasonable times.
- (3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar

amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Mountain City Police Department at all reasonable times.

- (6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.
- (8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.
- (9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment.
- (10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:  
This Adult-Oriented Establishment is Regulated by the Town of Mountain City Municipal Code. Entertainers are:
  - 1. Not permitted to engage in any type of sexual conduct;
  - 2. Not permitted to expose their sex organs;
  - 3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

**A-114. Prohibitions and unlawful sexual acts.**

- (1) No operator, entertainer, or employee of any adult-oriented establishment shall permit to be performed or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.
- (2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breast, buttocks, anus or genitals of any other person.

- (3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.
- (4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.
- (5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

**A-115. Penalties and prosecution.**

- (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.
- (2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour or violation.

**A-116. Invalidity of part.** Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, and shall not affect any other section, clause or provision of this chapter.