

**OFFICIAL**

**ZONING ORDINANCE**

**DAYTON, TENNESSEE**

**FORMALLY ADOPTED AND OFFICIAL**

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# CHAPTER 1

## INTRODUCTION

### SECTION

#### 01.01. AUTHORITY

#### 01.02. TITLE

#### 01.03. PURPOSE

#### 01.04. ENACTMENT

#### 01.01. AUTHORITY.

An ordinance, in pursuance of the authority granted in Section 13-7-201 through 13-7-210, **Tennessee Code Annotated**, to regulate in the City of Dayton, Tennessee, the location, height and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts, and other open spaces; the density and distribution of population; the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. Special districts or zones may be established in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Tennessee the eligibility for flood insurance under Public Law 1016, 84th Congress, or subsequent related laws or regulations promulgated thereunder.

#### 01.02. TITLE.

This ordinance shall be known as the Zoning Ordinance of the City of Dayton, Tennessee. The zoning map shall be referred to as the Official Zoning Map of the City of Dayton, Tennessee.

#### 01.03. PURPOSE.

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the City of Dayton. They have been designed to lessen congestion in the streets; to secure safety from fires, floods, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, waste water, 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 peculiar uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land within the City of Dayton.

#### 01.04. ENACTMENT.

Except as hereinafter provided, no building shall be erected or structurally altered, nor shall be any building or premises be utilized for any purpose, other than permitted in the zoning district in which the building or premises is located. No land or lot area shall be so reduced or diminished so that the yards or open spaces shall be smaller than prescribed herein, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located. No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

## CHAPTER 2

### DEFINITIONS

#### SECTION

##### 02.01. SCOPE

##### 02.02. DEFINITIONS

##### 02.01. SCOPE.

For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

##### 02.02. DEFINITIONS.

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them:

**Abutting.** Having a common border with, or being separated from such common border by, an alley or easement.

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

**Accessory Building.** A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

**Accessory Facility.** The permanent building(s) customarily necessary to support operations of the permanent, principal building, including garages, platforms and docks, maintenance and storage facilities, and other similar structures.

**Accessory Use.** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

**Acre.** Forty-three thousand, five hundred and sixty (43,560) square feet.

**Advertising.** Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, milestones, signboards, billboards, wallboard, roofboard, frames, supports, fences, or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

**Advertising Sign or Structure:** See sign.

**Agriculture.** The tilling of soil, the raising of crops, horticulture, and gardening, including the keeping or raising of domestic animals or fowl, but not including agricultural industry or business such as fruit-packing plants, fur farms, animal hospitals, or similar uses.

**Alley.** A public or legally established thoroughfare, other than a street, which affords a secondary means of access to abutting property.

**Apartment.** A dwelling unit contained in a building comprised of more than two (2) dwelling units, each of which has an entrance to a hallway or balcony in common with at least one (1) other dwelling unit. (In the central business district an apartment may be a single dwelling unit attached to an existing business.)

**Appeal.** A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance.

**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.

**Area of Shallow Flooding.** A designated B zone on the community's flood Insurance Rate Map (FIRM) with base flood depths, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of Special Flood Hazard.** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

**Automobile Wrecking.** The dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof.

**Automobile Wrecking, Junk, and Salvage Yards.** Any lot or place which is exposed to the weather and upon which more than three motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

**Average Ground Elevation.** The elevation of the mean finished grade at the front of a structure.

**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. When used for commercial activities, a basement shall be counted as a story.

**Board.** Dayton Board of Zoning Appeals (BZA).

**Buffer Strip (Planted Evergreen).** A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

**Building.** Any structure having a roof supported by columns or by walls, including tents, lunch wagons, dining cars, manufactured homes, and similar structures whether stationary or movable.



**Building Inspector.** The Zoning and Codes Officer or his authorized representative appointed by the Dayton City Council.

**Building, Main or Principal.** A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is located.

**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.

**Camping Ground.** A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

**Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. The top of the banks form the dividing line between channel and the floodplain.

**Clinic.** See medical facility.

**Correctional Facility.** A facility providing housing and care for individuals, including juveniles, legally confined for violations of the law. **(Amended 1/5/99)**

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

**Country Club.** A chartered, non-profit membership club, with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, riding, club house, pool, dining facilities, cocktail lounges.

**Customary Home Occupation.** A gainful occupation or profession conducted by members of a family residing on the premises and conducted within the principal dwelling unit or in an approved accessory building.

**Day-care center.** Any place, operated by a person, society, agency, corporation, institution or religious organization, or any other group wherein are received thirteen (13) or more children under seventeen (17) years of age for group care for less than twenty-four (24) hours per day without transfer of custody.

**Day Nursery.** Any place, home or institution, which receives six (6) or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and construction.

**Dedication.** The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee interest, including an easement.

**Developer.** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

**Development.** The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or

any clearing; grading, or other movement of land, for which permission may be required pursuant to this ordinance.

**District.** Any section or sections of Dayton, Tennessee, for which the regulations governing the use of land and the use density, bulk, height, and coverage of buildings and other structures are uniform.

**Drainage.** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

**Dwelling.** A building or portion thereof, exclusive of manufactured homes as herein defined, used for residential purposes.

**Dwelling, Multiple.** An attached building designed for occupancy by two or more families living independently of each other.

**Dwelling, Single Family.** A detached building designed to be occupied exclusively by one family.

**Dwelling Unit.** One or more rooms and a single kitchen designed as a unit for occupancy by only one family for cooking, living, and sleeping purposes.

**Easement.** Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

**Erosion.** The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

**Exterior storage.** Outdoor storage of fuel, raw materials, products, and equipment. In the case of lumberyards, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

**Family.** One or more persons related by blood, marriage, or adoption, or a group of not to exceed five (5) persons not all related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a board or lodging house, hotel, club, or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

**Family Care Facility.** A facility, classified as a "single family residence," which includes any home in which eight (8) or fewer unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and which may include two (2) additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped or physically handicapped persons residing in the home. As used in this part, "mentally handicapped" does not include persons who are mentally ill, and because of such mental illness, pose a likelihood of serious harm as defined in T.C.A. 33-6-104, or who have been convicted of serious criminal conduct related to such mental illness.**(Amended 1/5/99)**

**Filling.** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Area.** (The same meaning as the term "floodplain.")

**Flood Insurance Rate Map (FIRM).** The official map of a community on which FEMA has delineated both the Areas of Special Flood Hazard and the Risk Premium Zones applicable to the community.

**Flood Protection Elevation.** The elevation to which structures and uses regulated by these regulations are required to be elevated or floodproofed. Since Dayton's floodways are calculated to pass the 100-year flood with an increase in water level not more than one (1) foot, the flood protection elevation at any point along a stream is the natural 100-year flood level at that point plus one (1) foot.

**Floodplain.** The relatively flat area or lowlands adjoining a watercourse or other body of water which has been or may be covered by water.

**Floodway.** The channel of the watercourse and those positions of the adjoining floodplain which are reasonably required to provide for the passage of flow from a regulatory flood. This area must be left unobstructed in order to preserve the flood-carrying capacity of the stream and its floodplain without increasing the height of the floodwaters. Agriculture, day time parking, recreation, and open uses are permitted in this area.

**Floodway Fringe.** That part of the floodplain located between the floodway and the designated outline of the regulatory flood which would be covered by floodwaters of the regulatory flood. Uses are permitted if they are protected by fill, flood-proofed, or otherwise protected.

**Floor Area.** The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

**Frontage.** All the property on one side of a street between two 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.

**Frontage.** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and located between the street line and the front line of the building projected to the side lines of the lot.

**Garden Center.** A place of business where retail and wholesale products and produce are sold to the retail consumer. These center, which may include a nursery and/or greenhouses, import most of the items sold. These items may include plants, nursery products, and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools and utensils.

**Garage.** A deck or building, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

**Gasoline Service Station.** Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil, (but not butane or propane fuel), or automobile accessories, and incidental services including facilities for lubricating, car washing and cleaning, or otherwise servicing automobiles, but not including painting, or major repair.

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

**Greenhouse.** An enclosed building, permanent or portable, which is used for the growth of small plants.

**Group Care Facility.** A facility which nine (9) or more unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and which may include three (3) or more additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped or physically handicapped persons residing in the home. As used in this part, "mentally handicapped" does not include persons who are mentally ill, and because of such mental illness, pose a likelihood of serious harm as defined in T.C.A. 33-6-104, or who have been convicted of serious criminal conduct related to such mental illness. **(Amended 1/5/99)**

**Health Department.** The Rhea County Office of the Tennessee Department of Health and Environment.

**Height of Building.** The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

**Hospital.** (See Medical Facilities.)

**Hotel/Motel.** Every building or structure or enclosure or any part thereof kept, used as, maintained as, advertised as, intended for, or held out to the public as a place where sleeping accommodations are furnished - whether with or without meals - to transient guests (in contrast to a boarding, rooming, lodging, or apartment house) shall for the purpose of this ordinance be deemed a hotel and provide the customary hotel services such as maid and linen service, telephone and secretarial or desk service.

**Junk Yard or Salvage Yard.** A lot, land or structure, or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storing and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

**Kennel.** Any place in or at which any number of dogs are kept for the purpose of sale or in connection with boarding care or breeding, for which any fee is charged.

**Lakes and ponds.** Natural or artificial bodies of water which retain water year round. A lake is a body of water of two (2) or more acres. A pond is a body of water of less than two (2) acres. Artificial ponds may be created by dams or may result from excavation. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the event of any difference.

**Livestock.** Domestic animals of types customarily raised or kept on farms for profit or other purposes.

**Loading Space.** A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a vehicle.

**Lot.** A piece, parcel, or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under this ordinance.

**Lot Area.** The total surface area land included within lot lines.

**Lot Corner.** A lot of which at least two adjoining sides abut their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

**Lot Depth.** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**Lot Frontage.** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

**Lot, Interior.** A lot other than a corner lot.

**Lot, Lines.** The boundary dividing a given lot from the street, an alley, or adjacent lots.

**Lot of Record.** A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the date of passage of the **Dayton Subdivision Regulations**.

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

**Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive day. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

#### **Medical Facilities:**

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

**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.

**Dental Office or Doctor's Office.** Same as dental or medical clinics.

**Hospital.** An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are an integral part of the facility.

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

**Minimum Floor Elevation.** The lowest elevation permissible for the construction, erection, or other placement of any flood including a basement floor.

**Mini-warehouse/Mini-storage.** A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of *dead* storage units are permitted on the premises.

**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 situated.

**Noxious Matter.** Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions, or detrimental effects on the social, economic, or psychological well-being of individuals.

**Nursery.** An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels.

**Off-Street Parking Space.** A yard, space, or area off the road right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

**Open Space.** An area on the same lot with a main building which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot.

**Owner.** The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**Parcel.** The area within the boundary lines of a development.

**Parking Lot.** An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

**Parking Space.** An off-street space available for parking one motor vehicle and having an area of not less than two-hundred (200) square feet (10' X 20') exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

**Planning Commission.** The Dayton Regional Planning Commission (DRPC).

**Plat.** A map, plan, or layout indicating the location and boundaries of individual properties.

**Principal Use.** The specific primary purpose for which land or a building is used.

**Public Improvement.** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs as: vehicular and pedestrian circulation systems, stormsewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

**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.

**Recreational Vehicle.** A vehicle or a unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

**Recreational Vehicle Park.** A lot on which campsites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation.

**Restaurant, Fast Food.** An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption (1) within the restaurant building, (2) within a motor vehicle parked on the premises, or (3) off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.

**Restaurant, Standard.** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

**Right-of-Way.** The strip of land over which a public road is built.

**Roadway.** The actual road surface including necessary road shoulders and drainage facilities including ditches and curbing and guttering, which is utilized to transport motor vehicles.

**Sanitary Sewer.** A municipal or community sewerage collection, treatment, and disposal system of a type approved by the Health Department.

**Sanitary Landfill.** An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the State Department of Public Health.

**Shelter, Fall-Out.** A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fall-out, air raids, storms, or other emergencies.

**Shopping Center.** A group of commercial establishments planned, developed, and managed as a unit with off-street parking provided on the property.

**Side Yard.** An open, unoccupied space on the same lot with a principal building located between the side of the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

**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 representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit, nor does it include signs, flags, or pennants of a primarily decorative nature clearly incidental and customary and commonly associated with any national, local or religious holiday, or of a seasonal nature.**(Amended 1/5/99).**

**Special Exception.** Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the board, that he will meet certain enumerated safeguards or qualifying conditions.

**Stable, Commercial.** A building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

**Stable, Private.** Any building, incidental to an existing residential, principal use, that shelters horses for the exclusive use of the occupants of the premises.

**Start of Construction [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)].** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds nor occupied as dwelling units or not part of the main structure.

**Steep Slopes.** Land area where the inclination of the land's surface from the horizontal is fourteen (14) percent or greater. Slope is determined from on-site topographic surveys prepared with a two foot contour interval.

**Storm Sewers.** A municipal or community collection and disposal system for the control of storm drainage.

**Story.** The 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 included between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of floor area of the next story below.

Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered a story if more than half of its height is above the average ground level from which the "height of building" is measured, or if it is used for commercial purposes.

**Street.** Any public or private thoroughfare which affords the principal means of access to abutting property.



**Structure.** Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, and fences.

**Substantial Improvement.** For a structure built prior to the enactment of this ordinance, any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Swimming Pools.** A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing.

**Telecommunications Structure.** A building, tower, or other structure and equipment used for the transmission, re-transmission, broadcast, or promulgation of telephone, telegraph, radio, television, or other electronic communications signals. This definition shall not include utility structures. **(Added 2/1/16)**

**Townhouse.** A group of single-family residential dwellings of one or more floors, having or appearing to have a common wall with an adjacent similar unit or units.

**Toxic Material.** Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

**Travel Trailer.** A vehicular or portable structure designed and equipped to accommodate travellers for short periods of time, not to exceed thirty (30) days.

**Travel Trailer Park.** A parcel or area of land designed and equipped to accommodate travel trailers for short periods of time, not to exceed fourteen (14) days.

**Usable Floor Space.** Floor space used for retail sale or display; includes permanent outdoor sales, but excludes outdoor motor vehicle sales areas.

**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.

**Use, Temporary.** A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**Variance.** Permission to depart from the literal requirements of this ordinance.

**Yard, Front.** The required open space, unoccupied by buildings between the road or street right-of-way line and the principal building.

**Yard, Rear.** The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

**Yard, Side.** The required space unoccupied except as herein provided measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

# CHAPTER 3

## ZONING DISTRICTS

### SECTION

#### 03.01. CLASSIFICATION OF DISTRICTS

#### 03.02. ZONING MAP

#### 03.03. ZONING DISTRICT BOUNDARIES

#### 03.01. CLASSIFICATION OF DISTRICTS.

For the purpose of this ordinance, the following zoning districts are hereby established in the City of Dayton, Tennessee:

<u>DISTRICT ABBREVIATION</u>	<u>ZONING DISTRICT</u>
<u>R-1</u> .....	<u>LOW DENSITY RESIDENTIAL DISTRICT</u>
<u>R-2</u> .....	<u>MEDIUM DENSITY RESIDENTIAL DISTRICT</u>
<u>R-3</u> .....	<u>HIGH DENSITY RESIDENTIAL DISTRICT</u>
<u>R-4</u> .....	<u>RESIDENTIAL/PROFESSIONAL DISTRICT</u>
<u>C-1</u> .....	<u>CENTRAL BUSINESS DISTRICT</u>
<u>C-2</u> .....	<u>GENERAL COMMERCIAL DISTRICT</u>
<u>I-1</u> .....	<u>HEAVY INDUSTRIAL DISTRICT</u>
<u>I-2</u> .....	<u>LIGHT INDUSTRIAL DISTRICT</u>
<u>AG</u> .....	<u>AGRICULTURAL DISTRICT</u>
<u>F-1</u> .....	<u>FLOODWAY DISTRICT</u>
<u>F-2</u> .....	<u>FLOODWAY FRINGE DISTRICT</u>

#### 03.02. ZONING DISTRICT MAP.

The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map entitled Official Zoning Map of Dayton, Tennessee. The zoning map or zoning map amendment shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment. Certified copies of the adopted zoning map or zoning map amendment shall be maintained in the Office of the City Manager, City of Dayton and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect.

### **03.03. ZONING DISTRICT BOUNDARIES.**

Unless otherwise indicated on the zoning map or zoning map amendment, the district boundaries are lot lines, centerlines of streets or alleys, or the City of Dayton city limits as they exist at the time of the enactment of this zoning ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Dayton Board of Zoning Appeals.

Where the property on one side of a street between two intersecting streets is in a business or industrial district and the property on the intersecting street, except the corner or corners is in a residential district, the business or industrial use shall be limited to the property facing or fronting the street zoned for business throughout the block, and any property in the rear thereof facing or fronting the intersecting street, even though it appears to be in a business or industrial district, shall be governed by the use prevailing on the intersecting street. It is the purpose of this ordinance to limit business and industrial uses to the property facing or fronting the street zoned for business or industry and to forbid business or industrial uses facing or fronting the street zoned for residential uses. In all cases of ambiguity due to the actual layout of the property or other circumstances, the Board of Zoning Appeals shall have authority to determine on which street the business or industrial use shall face or front so that the spirit of the ordinance shall be observed.

## CHAPTER 4

### R-1 LOW DENSITY RESIDENTIAL DISTRICT

#### SECTION

##### **04.01. DISTRICT DESCRIPTION**

##### **04.02. USES PERMITTED**

##### **04.03. USES PERMITTED ON APPEAL**

##### **04.04. USES PROHIBITED**

##### **04.05. DIMENSIONAL REGULATIONS**

##### **04.06. PARKING SPACE REQUIREMENTS**

##### **04.07. ACCESS CONTROL**

#### **04.01. DISTRICT DESCRIPTION.**

This residential district is intended to be used for single family residential areas with relatively low population densities. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

#### **04.02. USES PERMITTED.**

In the R-1 Low Density Residential District, the following uses and their accessory uses are permitted.

1. Single family dwellings, but not including house trailers or "single-wide" manufactured homes.
2. Gardens and non-commercial greenhouses, provided that no greenhouse(s) shall have a heating plant within ten (10) feet of any side or rear lot line nor be larger in size than fifty (50) percent of the first floor square footage of the primary structure.
3. Churches or similar places of worship, but not including temporary missions or revival tents, provided that:
  - a. there is a planted evergreen buffer strip at least ten (10) feet wide along the property lines, except the lines bordering on streets, and
  - b. the buildings are located not less than thirty-five (35) feet from any property line.
4. Public schools, colleges, and other public educational institutions.
5. Family care facility. **(Amended 1/5/99)**

**04.03. USE PERMITTED ON APPEAL.**

In the R-1 Low Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval of the Board of Zoning Appeals in accordance with the provisions of Section 16.07.

1. Public golf courses, parks, country clubs, and swimming pools.
2. Customary home occupations as regulated in Section 14.07.
3. Lodge halls civic organizations, and private clubs, except a club's chief activity of which is customarily carried on as a business.
4. Cemeteries.
5. Replacement of single-wide manufactured homes, provided they shall be located on the same lot where a manufactured home existed immediately prior to the replacement.
6. Day Care Centers
7. Telecommunications Structures as regulated in Section 14.13. **(Added 2/1/16)**

**04.04. USES PROHIBITED.**

In the R-1 Low Density Residential District, all uses except those uses or their accessory uses specifically permitted or permitted upon appeal by the Dayton Board of Zoning Appeal are prohibited.

**04.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the R-1 Low Density Residential District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:  
The minimum depth of the front yard shall be determined by the classification of the street on which it fronts. The following depths shall apply:
  - a. Major thoroughfares and collectors ..... thirty (35) feet
  - b. Local streets and cul-de-sacs ..... twenty (25) feet
2. Rear Yard:  
The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and fifteen (15) feet for any permitted accessory structure.
3. Side Yard:  
The side yard shall be a minimum of ten (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac, the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road the side yard setback shall be thirty-five (35) feet.

4. Land Area:

No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 15,000 square feet in area except where public water supply and sanitary sewer service is available, in which case the minimum lot area shall be 10,000 square feet. However, where there is an existing lot of record of less than 15,000 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of one single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service, providing that said lot of record is not less than 7,500 square feet in area.

5. Lot Width:

No lot shall be less than 75 feet wide at the building setback line.

6. Height Requirement:

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height except as provided in Section 15.03.

**04.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**04.07. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

## CHAPTER 5

### R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

#### SECTION

##### 05.01. DISTRICT DESCRIPTION

##### 05.02. USES PERMITTED

##### 05.03. USES PERMITTED ON APPEAL

##### 05.04. USES PROHIBITED

##### 05.05. DIMENSIONAL REGULATIONS

##### 05.06. PARKING SPACE REQUIREMENTS

##### 05.07. ACCESS CONTROL

#### 05.01. DISTRICT DESCRIPTION.

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas which by location and character are appropriate for occupancy by medium density, single-family and multi-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants and adequate space for all related facilities.

#### 05.02. USES PERMITTED.

In the R-2 Medium Density Residential District, the following uses and their accessory uses are permitted:

1. All uses permitted in the R-1 Low Density Residential District.
2. Two-family dwellings.
3. Funeral parlors, provided that:
  - a. There is a planted evergreen buffer strip at least ten (10) feet wide along the property lines, except the lines bordering on streets, and
  - b. The buildings are located not less than thirty-five (35) feet from any property line.
4. Customary home occupations as provided in Section 14.07.
5. Recreational facilities associated with multi-family dwellings.



**05.03. USES PERMITTED ON APPEAL.**

In the R-2 Medium Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Dayton Regional Board of Zoning Appeals in accordance with the provisions of Section 16.07.

1. Tiplaxes, Quadraplexes and Townhouses.
2. Replacement of single-wide manufactured homes, provided they shall be located on the same lot where a manufactured home existed immediately prior to the replacement.
3. Telecommunications structures as regulated in Section 14.13. **(Added 2/1/16)**

**05.04. USES PROHIBITED.**

In the R-2 Medium Density Residential District all uses, except those uses or their accessory uses specifically permitted or permitted upon appeal by the Dayton Board of Zoning Appeals are prohibited.

**05.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the R-2 Medium Density Residential District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:

The minimum depth of the front yard shall be determined by the classification of the street on which it fronts. The following depths shall apply:

- a. Major thoroughfares and collectors .....thirty-five (35) feet
- b. Local streets and cul-de-sacs .....twenty-five (25) feet

2. Rear Yard:

The minimum depth of the rear yard shall be twenty (20) feet.

3. Side Yard:

The side yards shall be a minimum of ten (10) feet for the one and two story buildings, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac, the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collection road, the side yard setback shall be thirty-five (35) feet.

4. Land Area: **(Amended 11/3/08)**

Single family lots shall have a minimum lots size of 7,500 square feet and multi-family lots shall have a minimum lot size of 10,000 square feet.

\*Lots that do not use public sewer are subject to Health Department examination and may require larger lots than specified in this ordinance.

5. Lot Width:

No lot shall be less than 75 feet wide at the building setback line.

6. Height Requirement:

No building shall exceed three (3) stories or forty (40) feet, except as provided in Section 15.03.

**05.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**05.07. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

## CHAPTER 6

### R-3 HIGH DENSITY RESIDENTIAL DISTRICT

#### SECTION

##### **06.01. DISTRICT DESCRIPTION**

##### **06.02. USES PERMITTED**

##### **06.03. USES PERMITTED ON APPEAL**

##### **06.04. USES PROHIBITED**

##### **06.05. DIMENSIONAL REGULATIONS**

##### **06.06. PARKING SPACE REQUIREMENTS**

##### **06.07. ACCESS CONTROL**

#### **06.01. DISTRICT DESCRIPTION.**

This section provides for residences of high densities, including multi-family dwellings, manufactured home parks, and general types of residential development. It is the intent of this ordinance that the R-3 district contain sound development and be a desirable place in which to live.

#### **06.02. USES PERMITTED.**

Within the R-3 Residential District of Dayton, the following uses shall be permitted:

1. Any use permitted in the R-1 and R-2 Residential Districts.
2. Multi-family dwellings.
3. Single-wide manufactured homes on individual lots.
4. Manufactured home parks, and travel trailer parks provided they meet minimum requirements of the Dayton Manufactured Home and Travel Trailer Park Ordinance.
5. Public golf courses, parks, country clubs, and swimming pools.
6. Customary home occupations as regulated in Section 14.07.
7. Lodge halls civic organizations, and private clubs, except a club's chief activity of which is customarily carried on as a business.
8. Cemeteries.

#### **06.03. USES PERMITTED ON APPEAL**

In the R-3 High Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Dayton Board of Zoning Appeals in accordance with the provisions of Section 16.07.

1. **Any retail business or service directly relating to servicing the needs of highway traffic** provided they shall front on a major thoroughfare, or as devined by the Major Road Plan.
2. **Any retail business or service customarily serving residential neighborhoods** provided they shall front on a major thoroughfare, or as defined by a Major Road Plan.
3. Day Care Centers
4. Telecommunications structures as regulated in Section 14.13. **(Added 2/1/16)**

**06.04. USES PROHIBITED.**

In the R-3 High Density Residential District all uses, except those uses or their accessory uses specifically permitted are prohibited.

**06.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the R-3 High Density Residential District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:

The minimum depth of the front yard shall be determined by the classification of the street on which it fronts. The following depths shall apply:

- a. Major thoroughfares and collectors .....thirty-five (35) feet
- b. Local streets and cul-de-sacs .....twenty-five (25) feet

2. Rear Yard:

The minimum depth of the rear yard shall be twenty (20) feet for the principle structure and fifteen (15) feet for any permitted accessory structure.

3. Side Yard:

The side yards shall be a minimum of ten (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac, the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collection road, the side yard setback shall be thirty-five (35) feet.

4. Land Area: (Amended 11/3/08)

Single family lots shall have a minimum lots size of 7,500 square feet and multi-family lots shall have a minimum lot size of 10,000 square feet.

\*Lots that do not use public sewer are subject to Health Department examination and may require larger lots than specified in this ordinance.

5. Lot Width:

No lot shall be less than 75 feet wide at the building setback line.

6. Height Requirement:

No building shall exceed three (3) stories or forty (40) feet, except as provided in Section 15.03.

7. Buffer Strip:

Where a commercial building abuts a residential lot at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

**06.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**06.07. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

## CHAPTER 7

### R-4 RESIDENTIAL/PROFESSIONAL DISTRICT

#### SECTION

**07.01. DISTRICT DESCRIPTION**

**07.02. USES PERMITTED**

**07.03. USES PERMITTED ON APPEAL**

**07.04. USES PROHIBITED**

**07.05. DIMENSIONAL REGULATIONS**

**07.06. PROCEDURAL REQUIREMENTS FOR PROFESSIONAL OCCUPANCY**

**07.07. PROFESSIONAL USE DEVELOPMENT STANDARDS**

**07.08. PARKING SPACE REQUIREMENTS**

**07.09. ACCESS CONTROL**

**07.10. SIGNAGE REQUIREMENTS**

#### **07.01. DISTRICT DESCRIPTION.**

This district is established to provide a transitional and/or buffer zone between existing high density commercial and older established residential districts. It is intended to preserve the residential character of the district while permitting the establishment of professional service oriented office space. One important purpose of this district is to create adequate standards for development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload public water, sanitary or utility facilities. Densities should be limited to provide adequate light, air and usable open space for occupants of all permitted facilities.

#### **07.02. USES PERMITTED.**

In the R-4 Residential/Professional District, the following uses and their accessory uses are permitted.

1. Residential Uses - single family dwellings, duplexes, triplexes and quadraplexes provided that there shall be only one structure per lot. (If two or more lots are combined, in compliance with the Dayton Subdivision Regulations, more than one structure may be built on a lot, provided that the dimensional regulations, off street parking, and other such provisions of this ordinance are complied with.)
2. Professional Service - the following professional office space is permitted in this district providing that the occupant submits a letter-of-intent as required by Section 07.06.:
  - a. Architectural Offices
  - b. Doctors' Offices
  - c. Dentist Offices
  - d. Chiropractor Offices
  - e. Optometrist or Ophthalmologist Offices

- f. Engineering Offices
  - g. Attorneys' Offices
  - h. Real Estate Offices
  - i. Professional Consultants' Offices
  - j. Barber and Beauty Shops
3. Churches

**07.03. USES PERMITTED ON APPEAL.**

In the R-4 Residential/Professional District, the following uses and their accessory use may be permitted subject to review and approval by the Dayton Board of Zoning appeals in accordance with the provision of Section 16.07.

- 1. Family day care homes as defined in this ordinance and providing that an adequate fenced play area is provided.
- 2. Professional office space not listed in Section 07.02., providing that the usage is not contrary to the purpose and intent of this district.
- 3. A service/retail operation may be allowed provided that the operation does not generate the volume of traffic normally associated with retail operations. (An example of service/retail operation may be a design consultant/antique sales office.)
- 4. Senior Citizens/Group care facility. **(Added 1/5/99)**

**07.04. USES PROHIBITED.**

In the R-4 Residential/Professional District all uses, except those uses or their accessory uses specifically permitted or permitted upon review and approval by the Dayton Board of Zoning Appeals are prohibited.

**07.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the R-4 Residential/Professional District shall comply with the following requirements except as provided in Chapter 15.

- 1. Front Yard:
  - The minimum depth of the front yard shall be determined by the classification of the street on which it fronts. The following depths shall apply:
    - a. Major thoroughfares and collectors .....thirty-five (35) feet
    - b. Local streets and cul-de-sacs .....twenty-five (25) feet

2. Rear Yard:

The minimum depth of the rear yard shall be twenty (20) feet.

3. Side Yard:

The side yard shall be a minimum of ten (10) feet for the one and two story buildings, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac, the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collection road, the side yard setback shall be thirty-five (35) feet.

4. Land Area: (Amended 11/3/08)

Single family lots shall have a minimum lots size of 7,500 square feet and multi-family lots shall have a minimum lot size of 10,000 square feet.

\*Lots that do not use public sewer are subject to Health Department examination and may require larger lots than specified in this ordinance.

5. Lot Width:

No lot shall be less than 75 feet wide at the building setback line.

6. Height Requirement:

No building shall exceed three (3) stories or forty (40) feet, except as provided in Section 15.03.

**07.06. PROCEDURAL REQUIREMENTS FOR PROFESSIONAL OCCUPANCY.**

In order to prevent the over commercialization that could create traffic and safety hazards for residents of this district, the Dayton Regional Planning Commission requires a letter-of-intent from the person(s) who wish to utilize property primarily for business purposes. The Building Inspector shall not issue a permit for construction or commercial occupancy of property in this district until said letter-of-intent is submitted to the planning commission and approval granted upon review by the planning commission.

**07.07. PROFESSIONAL USE DEVELOPMENT STANDARDS.**

The letter-of-intent described in Section 07.06., shall be submitted by the owner or leasee of the property prior to its utilization as a professional operation and shall certify the following:

1. No more than three (3) professionals shall occupy the space at any one time. (In the case of uses permitted by Section 07.02. b, c, d, and e, only one professional with two assistants and/or two receptionists or any combination thereof is permitted.)



2. When existing residential structures are altered to accommodate commercial operation, any improvements to the primary structure shall utilize design elements which will maintain the residential character of the structure. Any new construction shall also conform to the residential nature of this district.
3. No lighted advertising signs shall be placed on premises. Only identification signs, not to exceed thirty-two (32) square feet in area, are permitted and shall be either attached to the building(s) or placed parallel to the front of the building in the area between the building and the parking area. If the parking area is in the rear of the building, signs placed in the front yard shall be no more than ten (10) feet from the building. (See Section 14.04.)
4. Only service oriented businesses will be conducted on the premises.
5. Only items incidental to the operation of the business will be shipped and received at the location in question and this business shall not become primarily a distribution office.

**07.08. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**07.09. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

**07.10. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## CHAPTER 8

### C-1 CENTRAL BUSINESS DISTRICT

#### SECTION

##### **08.01. DISTRICT DESCRIPTION**

##### **08.02. USES PERMITTED**

##### **08.03. USES PERMITTED ON APPEAL**

##### **08.04. USES PROHIBITED**

##### **08.05. DIMENSIONAL REGULATIONS**

##### **08.06. PARKING SPACE REQUIREMENTS**

##### **08.07. OFF-STREET LOADING AND UNLOADING**

##### **08.08. ACCESS CONTROL**

##### **08.09. SIGNAGE REQUIREMENTS**

#### **08.01. DISTRICT DESCRIPTION.**

This district is established to provide an area for the conduct of community and regional retail and service business of an indoor and intensive nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefitted by close proximity to other uses of similar nature and requirements; and for only those small-scale industrial uses commonly associated with retail, or business, or personal service activities. It is intended that such areas have properties of size suitable for uses of a variety of scale so developed as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial or industrial activities which are characterized by trucking other than stocking and delivery of retail goods, which cater exclusively to automobiles or traffic or to patrons who remain in their vehicles for service.

#### **08.02. USES PERMITTED.**

The following uses and their accessory uses shall be permitted in the C-1 Central Business District:

1. Any retail business or services including those which are making products sold at retail on the premises, providing such manufacturing is incidental to the retail business or service, occupies less than forty (40) percent of the floor area and employs not more than five (5) operators.
2. Automobile sales rooms and repair garages.
3. Taxi cab stands.
4. Clubs and lodges.
5. Banks.
6. Insurance agencies
7. Newspaper and printing plants.

8. Off-street parking lots.
9. Professional offices for doctors, lawyers, dentists, architects, artists, engineers, and the like.
10. Public uses and structures.
11. Public utility structures.
12. Radio and television stations.
13. Restaurants, bars, grills, and similar eating and/or drinking establishments, excluding drive-ins.
14. Signs and billboards as regulated in Section 14.04.
15. Theaters, indoor.
16. Wholesale and storage businesses excluding building material yards.

**08.03. USES PERMITTED ON APPEAL.** In the C-1 Central Business District, the following uses and their accessory uses may be permitted subject to the review and approval by the Dayton Board of Zoning Appeals in accordance with the provisions in Section 16.07 of this ordinance.

1. Hotels and motels, provided off street parking is provided.
2. Apartments subject to the following provisions.
  - a. In order to preserve the commercial character of the Central Business District, apartments shall be limited to an incidental or secondary use of the structure.
  - b. Where apartments are located in a two-story structure, those apartments are limited to the second-story only.
  - c. Where apartments are located in a single-story structure, those apartments shall be limited to the rear of the structure and shall not front the primary thoroughfare on which the structure is located.
  - d. A secondary point of egress shall be provided to allow for emergency exit.

**08.04. USES PROHIBITED.**

In the C-1 Central Business District, all uses, except those uses specifically permitted or permitted on appeal by the Dayton Board of Zoning Appeals are prohibited.

#### **08.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the C-1 Central Business District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:

No front yard shall be required in the C-1 Central Business District.

2. Rear Yard:

Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty (30) feet in depth. The depth of a rear yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases, no rear yard shall be required.

3. Side Yard:

No side yard shall be required except that a ten (10) foot buffer strip shall be required on any side which abuts a residential district.

4. Height Requirement:

No building shall exceed four (4) stories or fifty (50) feet, except as provided in Section 15.03.

#### **08.06. PARKING SPACE REQUIREMENTS.**

[No requirement for uses permitted by right.](#)

#### **08.07. OFF-STREET LOADING AND UNLOADING.**

[As regulated in Section 14.02.](#)

#### **08.08. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

#### **08.09. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## CHAPTER 9

### C-2 GENERAL COMMERCIAL DISTRICT

#### SECTION

##### 09.01. DISTRICT DESCRIPTION

##### 09.02. USES PERMITTED

##### 09.03. USES PERMITTED ON APPEAL

##### 09.04. USES PROHIBITED

##### 09.05. DIMENSIONAL REGULATIONS

##### 09.06. PARKING SPACE REQUIREMENTS

##### 09.07. OFF-STREET LOADING AND UNLOADING

##### 09.08. ACCESS CONTROL

##### 09.09. SIGNAGE REQUIREMENTS

#### 09.01. DISTRICT DESCRIPTION.

This district is established to provide areas for those amusement, specialized sales, and travel accommodations, activities which depend on visibility from or proximity to automobiles or traffic, serve regional travelers, cater to local residents in vehicles, or provide services essential to the movement of vehicles in major ways. It is intended that such areas have properties with lot sizes, yards, performance and development standards sufficient to ensure that activities performed on any one lot will not unduly impede the flow of traffic, will not adversely affect activities of adjoining zones, and will not infringe on the efficiency of activities or customer attractiveness to adjacent lots. It is further intended to exclude those uses which are not necessary for service to traffic, which are not dependent on traffic, and which could reasonably be located elsewhere without contributing to congestion on the major roads.

#### 09.02. USES PERMITTED.

The following uses and their accessory uses shall be permitted in the C-2 General Commercial District.

1. Any use permitted in the C-1 Business District, including uses permitted on appeal. **(Amended 11/3/08)**
2. Any retail business or service directly related to serving the needs of highway traffic provided they shall front on a major thoroughfare.
3. Any retail business or service customarily serving residential neighborhoods.
4. Agricultural implement, sales, service, and repair.
5. Drive-in theaters and restaurants and outdoor theaters provided they shall front on a major thoroughfare and also provided that the viewing screen of the drive-in or outdoor theater does not face the major thoroughfare whereby motorists on that thoroughfare would be distracted by the showing of a film.
6. Gasoline service stations, provided that all structures, including underground storage tanks, are placed not less than thirty (30) feet from any property line and

that such use shall front on a major thoroughfare. Points of access and egress shall be located not less than twenty (20) feet from the intersection of street lines.

7. Package stores, provided they meet all applicable federal, state, and local regulations. **(Added 6/5/17)**

### **09.03. USES PERMITTED ON APPEAL.**

In the C-2 General Commercial District, the following uses and their accessory uses may be permitted subject to appeal and approval of the Dayton Board of Zoning Appeals in accordance with the provisions of Section 16.07.

1. Truck stops.
2. Amusement parks, amphitheaters, ball parks or stadiums, fairgrounds, and group picnic grounds.
3. Wholesale and storage businesses including building and material yards.
4. Telecommunications structures as regulated in Section 14.13. **(Added 2/1/16)**

### **09.04. USES PROHIBITED.**

All uses, except those uses or their accessory uses specifically permitted or permitted upon appeal and approved by the Dayton Board of Zoning Appeals are prohibited.

### **09.05. DIMENSIONAL REGULATIONS.**

The following requirements shall apply to all uses permitted in this district:

1. Lot Area:
  - a. For those areas served by a sanitary sewer system, there shall be a minimum lot area of not less than seventy-five hundred (7,500) square feet.
  - b. For those areas not served by a sanitary sewer system, the lot area requirements shall be determined by the planning commission based on recommendations of the Health Department, but in no case shall be less than fifteen thousand (15,000) square feet.
2. Front Yard:

The depth of the front yard shall be thirty-five (35) feet from any right-of-way.
3. Side Yard:

The width of any side yard which abuts a residence district shall be not less than twenty-five (25) feet. In all other cases each side shall be not less than fifteen (15) feet.

4. Rear Yard:

Each lot shall have a rear yard of not less than ten (10) feet; where a commercial building is serviced from the rear there shall be provided a rear yard of not less than thirty (30) feet; the depth of a rear yard which abuts a residential district shall not be less than twenty-five (25) feet; where a commercial building is serviced from the rear and abuts residential property the depth of the rear yard shall not be less than forty-five (45) feet.

5. Lot Width:

Each lot shall have a width of not less than seventy-five (75) feet at the building line.

6. Height Restrictions:

No building or structure shall exceed four (4) stories or fifty (50) feet, except as provided in Section 15.03.

7. Buffer Strip:

Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

**09.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**09.07. OFF-STREET LOADING AND UNLOADING.**

[As regulated in Section 14.02.](#)

**09.08. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

**09.09. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## CHAPTER 10

### I-1 LIGHT INDUSTRIAL DISTRICT

#### SECTION

##### 10.01. DISTRICT DESCRIPTION

##### 10.02. USES PERMITTED

##### 10.03. USES PROHIBITED

##### 10.04. DIMENSIONAL REGULATIONS

##### 10.05. PARKING SPACE REQUIREMENTS

##### 10.06. OFF-STREET LOADING AND UNLOADING

##### 10.07. ACCESS CONTROL

##### 10.08. SIGNAGE REQUIREMENTS

##### 10.09. SCREENING - BUFFER STRIP

#### 10.01. DISTRICT DESCRIPTION.

The industrial district is established to provide areas in which the principal use of land is for manufacturing and assembly plants, processing, storage, warehousing, and distribution. It is the intent that permitted uses are conducted so that most of the noise, odor, dust, and glare of each operation is confined within an enclosed building. These industries may require direct access to rail, water, or street transportation routes.

These regulations are intended to prevent friction between uses within the district and also between adjoining commercial or residential uses.

#### 10.02. USES PERMITTED.

In the I-1 Light Industrial District, the following uses and their accessory uses are permitted.

1. Any retail establishment which includes the manufacturing of goods for sale at retail on the premises.
2. Tire recapping or retreading.
3. Repair or service facilities including, but not limited to, automobile repair, appliance repair, machine shops, cabinet shops, carpentry, plumbing and welding.
4. Contractors or construction equipment dealers' yards.
5. Grain or feed storage or processing.
6. Heating fuel or building material storage or wholesaling.
7. Radio or television towers.
8. Truck terminals.
9. Railroad installations or receiving yards.
10. Wholesale or warehouse receiving yards.



11. Bottling plants and milk distribution stations or packaging works.
12. Assembly of parts for production of finished equipment.
13. Manufacturing, fabricating, processing, or assembling processes which do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat, or glare such as, but not limited, to the following:
  - a. Bolts, nails, rivets, or similar fastenings.
  - b. Clothing.
  - c. Food products.
  - d. Pharmaceuticals.
  - e. Furniture and wood products.
  - f. Hand tools and hardware products.
  - g. Ice.
  - h. Leather goods, but not tanning.
  - i. Musical instruments, games, or toys.
  - j. Office machines.
  - k. Optical goods.
  - l. Paper products, but not paper mills.
  - m. Sporting goods.
  - n. Tobacco processing or treatment.
14. Signs and billboards as regulated in Section 15.10.

**10.03. USES PERMITTED ON APPEAL.** In the I-1 Light Industrial District, the following uses and their accessory uses may be permitted subject to review and approval by the Dayton Board of Zoning Appeals in accordance with the provisions in Section 16.07 of this ordinance. **(Added 2/1/16)**

1. Telecommunications structures as regulated in Section 14.13.

**10.04. USES PROHIBITED.**

All uses except those uses specifically permitted in the I-1 Light Industrial District are prohibited.

**10.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the I-1 Light Industrial District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:
  - a. Arterials..... Fourty (40) feet

b. Collectors ..... Thirty (30) feet

2. Rear Yard:

The minimum depth of the rear yard shall be thirty (30) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the rear setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

3. Side Yard:

The minimum depth of the side yard shall be twenty-five (25) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the side setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

4. Railroads:

Lots abutting upon a railroad lead track easement or right-of-way shall reserve sufficient space to permit construction of a side track approximately parallel to the railroad easement or right-of-way.

5. Land Area:

Where public water and sewer service are available, there shall be required a minimum land area of one-half (1/2) acres. In areas where only public water is available there shall be a minimum of five (5) acres. No industrial land use shall be permitted in areas where a public water supply is not available except where the planning commission has determined that such use does not require a supply of potable water in its manufacturing operation except where the Board of Zoning Appeals shall grant written approval of the use and shall establish a minimum land area which shall not be less than five (5) acres.

6. Maximum Lot Coverage:

Buildings and accessory facilities shall not cover more than fifty (50) percent of the lot; buildings, accessory facilities, parking, and materials handling and transfer facilities shall not cover more than eighty (80) percent of the lot. No building or accessory facilities above ground shall extend beyond the building setback line(s) into the setback area(s).

7. Lot Width:

No lot shall be less than two hundred (200) feet wide at the building setback line or exceed a three-to-one (3:1) ratio.

8. Buffer Strip:

Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

**10.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**10.07. OFF-STREET LOADING AND UNLOADING REQUIREMENTS.**

[As regulated in Section 14.02.](#)

**10.08. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

**10.09. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## CHAPTER 11

### I-2 HEAVY INDUSTRIAL DISTRICT

#### SECTION

- 11.01. DISTRICT DESCRIPTION
- 11.02. USES PERMITTED
- 11.03. USES PERMITTED ON APPEAL
- 11.04. USES PROHIBITED
- 11.05. DIMENSIONAL REGULATIONS
- 11.06. [PARKING SPACE REQUIREMENTS](#)
- 11.07. [OFF-STREET LOADING AND UNLOADING](#)
- 11.08. [ACCESS CONTROL](#)
- 11.09. [SIGNAGE REQUIREMENTS](#)
- 11.10. SCREENING - BUFFER STRIP

#### 11.01. DISTRICT DESCRIPTION.

The industrial district is established to provide areas in which the principal use of land is for heavy manufacturing and its related uses that could possibly have an adverse affect on surrounding property, such as residential, institutional, or commercial uses. As such, these industrial uses are intended to be confined to a specific location or area where their existence will not adversely affect surrounding uses. It is also the intent of this district to provide industries convenient access to present and future arterial thoroughfares, highways, water routes, and railway lines.

#### 11.02. USES PERMITTED.

In the I-2 Heavy Industrial District, the following uses and their accessory uses are permitted subject to all state and federal environmental regulations.

1. All uses permitted in the I-1 Light Industrial District.
2. River terminals.
3. Boats.
4. Barge repair facilities.
5. Bulk storage of petroleum products in containers established either above or below grounds.
6. A retail or service use only when it serves directly or is auxiliary to the needs of industrial plants or employees thereof.
7. Alcohol manufacture.
8. Ammonia, bleaching powder, or chlorine manufacture.
9. Boiler works and tank manufacture.

10. Central mixing plant for mortar or cement and concrete or cement products manufacture.
11. Chemical manufacture.
12. Iron, steel, brass, or copper foundry or fabrication of metals.
13. Railroad freight terminals.
14. Paint, oil, shellac, turpentine, varnish, or enamel manufacture.
15. Plastic manufacture.
16. Power plants.
17. Rolling mills.
18. Coal loading and storage operations.
19. Manufacture and fabrication of rubber and related products.
20. Soap manufacture.
21. Natural resource extraction.
22. Signs and billboards as regulated in Section 15.10.

**11.03. USES PERMITTED ON APPEAL.**

The following uses may be permitted on review and approval by the Dayton Board of Zoning Appeals.

1. Extraction, reduction, crushing, storage, or distribution of mineral resources.
2. Acid manufacture.
3. Cement, lime gypsum, or plaster of paris manufacture.
4. Distillation of bones.
5. Drop forge industries (forging with power).
6. Explosive manufacture or storage.
7. Fat rendering, except as an incidental use.
8. Fertilizer manufacture.
9. Glue manufacture.
10. Paper and pulp manufacture.
11. Petroleum refining.

12. Rock, sand, gravel, or earth extraction, crushing, or distribution.
13. Saw mills.
14. Slaughter of animals, including poultry killing or dressing.
15. Smelting of tin, copper, zinc, or iron ores.
16. Stockyards or feeding pens.
17. Tanneries or the curing or storage of raw hides.
18. Asphalt manufacture or refining.
19. Tar distillation or tar products manufacture.
20. Telecommunications structures as regulated in Section 14.13. **(Added 2/1/16)**

**11.04. USES PROHIBITED.**

All uses except those uses permitted or permitted subject to review and approval by the Dayton Board of Zoning Appeals are prohibited in the I-2 Heavy Industrial District.

**11.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the I-2 Heavy Industrial District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:

The minimum depth of the front yard shall be as follows:

- a. Arterials..... Forty (40) feet
- b. Collectors ..... Thirty (30) feet

2. Rear Yard:

The minimum depth of the rear yard shall be thirty (30) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the rear setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

3. Side Yard:

The minimum depth of the side yard shall be twenty (20) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the side setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

4. Railroads:

Lots abutting upon a railroad lead track easement or right-of-way shall reserve sufficient space to permit construction of a side track approximately parallel to the railroad easement or right-of-way.

5. Land Area:

Where public water and sewer service are available, there shall be required a minimum land area of two (2) acres. In areas where only public water is available there shall be a minimum of five (5) acres. No industrial land use shall be permitted in areas where a public water supply is not available except where the planning commission has determined that such use does not require a supply of potable water in its manufacturing operation except where the Board of Zoning Appeals shall grant written approval of the use and shall establish a minimum land area which shall not be less than five (5) acres.

6. Maximum Lot Coverage:

No maximum lot coverage shall be imposed other than the restrictions imposed by the setback requirements.

7. Lot Width:

No lot shall be less than one hundred fifty (150) feet wide at the building setback line or exceed a three-to-one (3:1) ratio.

8. Buffer Strip:

Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

9. Height Restrictions:

No building or structure shall exceed one hundred and fifty (150) feet in height, except as provided in Section 15. 03.

**11.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**11.07. OFF-STREET LOADING AND UNLOADING REQUIREMENTS.**

[As regulated in Section 14.02.](#)

**11.08. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

**11.09. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## CHAPTER 12

### AG AGRICULTURAL DISTRICT

#### SECTION

##### 12.01. DISTRICT DESCRIPTION

##### 12.02. USES PERMITTED

##### 12.03. USES PERMITTED ON APPEAL

##### 12.04. USES PROHIBITED

##### 12.05. DIMENSIONAL REGULATIONS

##### 12.06. PARKING SPACE REQUIREMENTS

##### 12.07. ACCESS CONTROL

##### 12.08. SIGNAGE REQUIREMENTS

#### 12.01. DISTRICT DESCRIPTION.

This district is intended to preserve those areas within the City of Dayton for which agriculture is a desirable and profitable use from encroachment by more intense uses. The AG Agriculture District provides for low density residential development. It is further intended that the AG Agriculture District prevent undesirable urban sprawl and to exclude land uses which demand a level of urban services which are impossible or uneconomical to provide.

#### 12.02. USES PERMITTED.

In the AG Agriculture District, the following uses and their accessory uses are permitted:

1. Farming and agricultural uses as defined in Chapter 2.
2. Detached single-family and two-family dwellings.
3. Parks, playgrounds, golf courses, driving ranges, country clubs, community centers and other public recreational facilities.
4. Gardening, plant nurseries, and hothouses.

#### 12.03. USES PERMITTED ON APPEAL.

In the AG Agriculture District, the following uses and their accessory uses may be permitted subject to review and approval by the Dayton Board of Zoning Appeals in accordance with the provisions of Section 16.07.

1. Churches.
2. Riding stables and kennels.
3. Marinas.
4. Travel trailer parks and campgrounds.
5. Utility facilities necessary for the provisions of public services.



6. Signs and billboards, as regulated in Section 14.04.
7. One roadside stand for the sale of agricultural products produced on the premises, provided that such stand does not exceed a total area of three hundred (300) square feet and provided it is located not nearer than thirty-five (35) feet from the roadway.
8. Medical facilities, private doctors or dental offices.
9. Public or private school, colleges, libraries and fire stations and utility substations.
10. Neighborhood shopping facilities provided the total space devoted to retail sales does not exceed 2,000 square feet.
11. Private recreational facilities other than those permitted.
12. Governmental buildings.
13. Manufactured home parks.
14. Cemeteries.
15. Telecommunications structures as regulated in Section 14.13. **(Added 2/1/16)**

**12.04. USES PROHIBITED.**

In the AG Agriculture District, all uses except those uses or their accessory uses, specifically permitted or permitted upon review and approval by the Dayton Board of Zoning Appeals, are prohibited.

**12.05. DIMENSIONAL REGULATIONS.**

All uses permitted in the AG Agricultural District shall comply with the following requirements except as provided in Chapter 15.

1. Front Yard:

The minimum depth of the front yard shall be determined by the classification of the street on which it fronts. The following depths shall apply:

- a. Major thoroughfares and collectors .....thirty-five (35) feet
- b. Local streets and cul-de-sacs ..... twenty-five (25) feet

2. Rear Yard:

The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and fifteen (15) feet for any permitted accessory structure.

3. Side Yard:

The side yard shall be a minimum of ten (10) feet for one and two story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac, the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road, the side yard setback shall be thirty-five (35) feet.

4. Land Area:

No parcel of land shall be reduced in size to provide separate lots or building sites of less than one (1) acre in area, except in instances where a public water supply is not available, in which case a two (2) acre minimum lot area shall be required. However, where there is an existing lot of record of less than one (1) acre, at the time of adoption of this ordinance, this lot may be utilized for the construction of one (1) single-family dwelling, providing the lot in question has a public water supply. Where a lot of record exists without a public water supply, it may be utilized for one (1) single-family dwelling, provided it is not less than one (1) acre in area. In no case shall property be subdivided, sold, or reduced to less than one (1) acre of land area for any nonresidential permitted use.

5. Maximum Lot Coverage:

Main farm or agricultural accessory buildings shall cover no more than five (5) percent of the total land area. Permitted nonagricultural uses, both principal and accessory, shall cover no more than thirty (30) percent of the total land area.

6. Lot Width:

No lot shall be less than one hundred (100) feet wide at the building setback line.

7. Height Requirement:

No building shall exceed two and one-half (2 1/2) feet wide and thirty (30) feet in height, except as provided in Section 5.030.

**12.06. PARKING SPACE REQUIREMENTS.**

[As regulated in Section 14.01.](#)

**12.07. ACCESS CONTROL.**

[As regulated in Section 14.03.](#)

**12.08. SIGNAGE REQUIREMENTS.**

[As regulated in Section 14.04.](#)

## **CHAPTER 13**

**Refer to Appendix A – Municipal Floodplain Ordinance 502**

## CHAPTER 14

### SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS

#### SECTION

- 14.01. OFF-STREET PARKING REQUIREMENTS
- 14.02. OFF-STREET LOADING AND UNLOADING REQUIREMENTS
- 14.03. ACCESS CONTROL
- 14.04. SIGNAGE REQUIREMENTS
- 14.05. ACCESSORY USE REGULATIONS
- 14.06. TEMPORARY USE REGULATIONS
- 14.07. CUSTOMARY HOME OCCUPATION
- 14.08. FEE SIMPLE RESIDENTIAL TOWNHOUSE DEVELOPMENT
- 14.09. GENERAL LOT RESTRICTIONS
- 14.10. VISION AT STREET INTERSECTIONS
- 14.11. GASOLINE SERVICE STATION RESTRICTIONS
- 14.12. SWIMMING POOL RESTRICTIONS
- 14.13. TELECOMMUNICATIONS STRUCTURE REGULATIONS

#### 14.01. OFF-STREET PARKING REQUIREMENTS

##### 1. Spaces Required.

Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One (1) passenger vehicle space shall be determined as two hundred (200) square feet (10 feet wide by 20 feet long) of parking space and such space shall be provided with vehicular access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

- A. Dwellings: A minimum of two (2) spaces for each dwelling unit.
- B. Tourist Accommodations, Motel, or Hotel: Not less than one (1) space for each room offered for tourist accommodation.
- C. Any Auditorium, Church, Stadium, or Other Place of Public Assembly: Not less than one (1) space for every five (5) seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one (1) space for each one hundred (100) square feet of floor space devoted to that particular use shall be provided.
- D. Manufacturing or Other Industrial Use: Not less than one (1) space for every five (5) persons employed on a single shift, with a minimum of five (5) spaces provided for any establishment.
- E. Commercial Building or Use: One (1) space for each one hundred and seventy-five (175) square feet of usable floor space in commercial districts. (Usable floor space is to be determined by the building inspector based on the nature of the business.)

- F. Medical or Dental Clinics and Hospitals: Four (4) spaces per doctor, plus one (1) additional space per employee.
- G. Service Stations: Five (5) spaces for each grease rack or similar facility, plus one (1) space for each gasoline pump.
- H. Offices: One (1) space for each two hundred (200) square feet of office space.
- I. Restaurants: One (1) space per one hundred fifty (150) square feet of usable floor area, plus one (1) space for every two (2) employees. (For drive-in restaurants, one (1) space per fifty (50) square feet of usable floor area.)

2. Certification of Minimum Parking Requirements.

Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this section are met.

3. Combination of Required Parking Space.

The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

4. Remote Parking Space.

If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within five hundred (500) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this ordinance, has been made for the principal use.

5. Requirements for Design of Parking Lots.

- A. Except for parcels of land devoted to one and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
- B. Each parking space shall be no less than two hundred (200) square feet in area (20' X 10').
- C. Entrances and exists for all off-street parking lots shall comply with the requirements of Section 14.03.

- D. The parking lot shall be contoured providing drainage to eliminate surface water.

#### **14.02. OFF-STREET LOADING AND UNLOADING REQUIREMENTS.**

Every building or structure hereafter constructed and used for industry, or business or trade in all districts shall provide space for the loading and unloading of vehicles off the street or public alley. This space shall not be considered as part of the space requirements for off-street automobile storage.

Behind every building or structure used for business or trade, there shall be a rear yard not less than twenty (20) feet in depth to provide space for loading and unloading vehicles.

The Board of Zoning Appeals may hereafter reduce or increase this requirement in the interest of safety where unusual or special conditions merit special consideration.

#### **14.03. ACCESS CONTROL.**

In order to expedite the movement of traffic; to promote the safety of the motorist and pedestrian; and to minimize traffic congestion and conflict, it is necessary to reduce the points of vehicular contact. Therefore, to effectively control vehicular access on to the streets of Dayton, it is necessary to classify such streets as follows:

1. major thoroughfares;
2. collectors; and
3. local streets.

The classification of each street shall be as shown on the Major Route Plan of Dayton, Tennessee, which is kept in city hall.

1. Development Requiring Access Control Plan.

All commercial and industrial establishments and apartment complexes of four (4) or more dwelling units must file an access control plan meeting all requirements of this section and must have such plan approved by the DRPC prior to obtaining a building permit.

Although access control plans are not required for single-family homes and duplexes and trailers, the provision of R-1, R-2, and R-3 of this section shall nevertheless be adhered to for access to these land uses.

2. General Access Regulations Applying to All Classifications of Streets.

A. Maximum Width of All Access Points: The maximum width of all access points shall be 30 feet measured at the property line except when the development requiring access generates high overall or high peak traffic volumes, the DRPC may approve a wider channelized access point to allow various turning movements for greater traffic control and safety.

B. Temporary Access Ways: Temporary access ways may be generated by the planning commission at locations other than those

specified for permanent access where it is expedient for the purpose of staged development. Temporary access ways shall be closed when permanent access to the property is completed.

- C. Off-street Parking Lanes Entirely Independent of Public Streets: No off-street vehicular storage or parking area shall be allowed where the arrangement requires that vehicles back directly into a public street right-of-way.
- D. Access for Lots Fronting on More Than One Street: In all commercial developments where a lot abuts more than one street, the planning commission may require that the access be provided from the street of lowest classification when necessary to lessen serious congestion on the major street. If access is allowed on to two or more streets, the number of access points shall conform to those allowed for each street classification. (See Subsection C.)
- E. Gasoline Service Stations: Gasoline service stations shall be allowed two (2) access points on to the same street to allow proper circulation past gasoline pumps. This is regardless of lot width or street classification provided the required site plan is approved by the DRPC.

3. Construction of Frontage Roads and Interior Circulation Drives.

In order to limit the number of individual access points to an arterial or collector street, the DRPC shall encourage and may require the development of frontage roads and interconnecting interior circulation drives.

- A. Frontage Roads: Frontage roads are those which parallel the existing street and extend across the entire frontage of a particular large property or group of properties. Frontage roads may be required to provide safe and efficient public access to individual properties eliminating the traffic congestion which would be caused if each parcel had its own access on to the arterial or collector street. Access points between the frontage road and the main thoroughfare shall be no closer together than 500 feet and no closer together than 300 feet (measured along the street right-of-way) along collector streets. All frontage roads shall be built to the standards specified in the Dayton Subdivision Regulations and shall be dedicated as public streets subject to the city's street adoption policy and then maintained by the City of Dayton.

Access requirements for property served by a frontage road shall be the same as for property fronting a minor street (i.e. at least 100 feet apart) except that the planning commission may also allow a regrouping of access points on to the frontage road in accordance with an approved site plan which does not destroy the intent of these access control provisions.

- B. Interior Circulation Drives: Interior circulation drives are needed in large developments which require large parking areas. These drives interconnect all parking lot access points with all buildings and areas of vehicular traffic, parking, loading and servicing. They

are constructed to provide safe and efficient vehicular movement between specified access points of a development or a series of developments. The planning commission shall encourage and may require that the interior circulation drives of adjacent developments be connected to eliminate the need to use the public streets to drive from one to another. All circulation drives shall be clearly defined and marked appropriately with arrows, etc. to assist public circulation into and out of the property and its parking areas.

An area of land not less than 20 feet deep shall be provided between the public street right-of-way line and the edge of all proposed frontage roads or interior circulation drives. This area will separate the roadways with a minimum turning, radius. Such area shall be landscaped and grassed.

The width, placement, and design of frontage roads and interior circulation drives shall be reviewed by the planning staff and shall be approved by the DRPC.

4. Specific Number of Access Points Allowed for Each Street Classification.

Wherever topographical features, existing developmental patterns, or other factors make the construction of frontage roads unfeasible, the planning commission shall allow direct access to the existing streets according to the following minimum requirements for each street classification.

- A. Access Points for Major Thoroughfares: In the absence of a frontage road, all lots having between 100 and 500 feet of frontage shall have no more than one (1) point of access to the major thoroughfare. For lots with over 500 feet of frontage, additional access points shall be allowed provided they are spaced at least 500 feet apart from each other and from the first access point. For development generating high overall or high peak traffic volumes, the DRPC may lessen the distance between access points to allow improved access provided a carefully planned pattern of internal and external channelization is prepared and approved.

When a lot of record fronting a major thoroughfare has less than 100 feet of frontage, the DRPC shall first attempt to obtain joint access with either adjacent property or access on to a frontage road. If this is not feasible, one single access point may be allowed, and should be located with consideration to the distance to the access points on the adjacent lots.

- B. Access Points for Collector Streets: In the absence of a frontage road, all lots less than 300 feet in width shall have no more than one (1) point of access to any one public street. For lots with over 300 feet of frontage, additional access points shall be allowed provided they are spaced at least 300 feet apart from each other and from the first access point.
- C. Access Points for Local Streets: All lots of less than 100 feet shall have no more than one (1) point of access to the local street. For lots with over 100 feet of frontage, additional access points may be



allowed provided they are spaced at least 100 feet apart from each other and from the first access point. (Frontage Roads shall also be considered Local Streets in order to provide the most lenient access provisions to developers who construct these beneficial facilities.)

#### **14.04. SIGNAGE REQUIREMENTS.**

The purpose of this section is to regulate the location, type and structural requirements of outdoor advertising displays in the City of Dayton. The purpose of these regulations is to ensure compatible land uses, public safety, and adequate design standards.

1. Signage Classifications.
  - A. Spectacular Sign: These signs have advertising copy which is animated, wired for lights or luminous tubing, or both, with copy action controlled by the flashed circuit breakers or matographs.
  - B. Ground Signs: These signs are supported by uprights or braces in or upon the ground; or when such sign is mounted upon a vehicle, trailer, or mobile structure principally used for the purpose of advertising.
  - C. Roof Signs: Any sign erected, constructed, or maintained above the roof of any building.
  - D. Wall Sign: Any sign that is affixed to the wall of any structure, when such sign shall project not more than twelve (12) inches from the building.
  - E. Projection Sign: Any sign which is affixed to any building wall or structure and extends beyond the building wall, structure, more than twelve (12) inches.
  - F. Marquee Sign: A projecting sign which is attached to or hung from a marquee.
  - G. Shingle Sign: A projection or wall sign not over six (6) square feet in area, constructed of metal or other non-combustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.
  - H. Off-Premise(s) Sign: Any sign or advertising display which illustrates or announces any activity, service or product that is provided at a location, other than the site upon which the sign or advertising display is located. For the purposes of this ordinance, off-premises signs do not include temporary campaign signs for elections for public office or public signs, as defined in this ordinance.  
*(Subsection H was added to the ordinance by amendment on August 4, 1997)*
  - I. Public Sign: Any temporary or permanent sign erected and maintained by the City, County, State, or Federal Government for traffic direction or for the designation of or direction to any school,

hospital, historical site, or public service, property or facility.  
**(Added 1/5/99)**

- J. Mall Grouping Sign: Signs on one pole identifying a group of stores, businesses, or professional offices located in one development. These include office center signs and shopping center signs. **(Amended 8/2/99)**
- K. On-Premise Sign: A sign erected, maintained, or used in the outdoor environment for the purpose of displaying messages related to the use of, the sale or lease of, or the products sold on the property on which it is displayed. **(Added 10/5/15)**
- L. Billboard: And permanent off-premise sign, containing either commercial or non-commercial messages, which directs attention to a business, commodity, or service conducted, sold, or offered at a location other than the premises on which the sign is located. **(Added 10/5/15)**

2. General Regulations Applicable to All Zoning Districts.

*(Subsections I through M were added to this section of the ordinance by amendment on August 4, 1997).*

- A. No sign shall be erected where by reason of its position, wording, illumination, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device, nor in any way obstruct pedestrian traffic;
- B. The building setback for ground signs shall be one-half the customary building setbacks for the various zoning districts. In the C-1 and R-4 districts, no ground signs will be permitted on sidewalks or within street rights-of-way;
- C. Temporary signs shall not be erected or otherwise fixed to any pole, tree, stone, fence, or any other object within the right-of-way of any street;
- D. No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress;
- E. All signs which extend over a sidewalk shall be at least nine (9) feet above the sidewalk;
- F. Blue, red and amber beacon or blue, red and amber flashing lights are prohibited on any sign in the City of Dayton;
- G. The Dayton Building Inspector may issue a permit for a non-illuminated temporary sign which he considers compatible with a temporary use permit. In no case shall the sign be more than thirty-two (32) square feet in size and must be removed at the termination of the temporary use permit.

- H. The advertising display area of all signs in the City of Dayton, Tennessee shall not exceed two hundred fifty (250) square feet in area with the exception of mall grouping signs, which may contain up to three hundred (300) square feet. **(Amended 10/5/15)**
- I. Within the city limits of Dayton, no off-premise sign shall be permitted within six hundred sixty (660) feet of the intersection of any State Highway and any public street right-of-way. State Highways shall include those highways designated and known as: Highway 27; Highway 27 Bypass; Highway 30; Highway 60; and, North and South Market Street which is designated as Highway 27 Business District.
- J. Temporary off-premise signs, which display special events or activities, may be permitted subject to review and approval by the Dayton Board of Zoning Appeals. The Board of Zoning Appeals shall determine the type and location for any temporary off-premise sign that it deems permissible. Any temporary off-premise sign permit shall expire after forty-five (45) days. The building inspector may issue an extension for an additional forty-five (45) days for a temporary off-premise sign, but only for those temporary off-premise signs which have obtained prior approval from the Board of Zoning Appeals.
- K. Off-premise signs that are located in recreational areas, such as signs located on outfield walls or dugouts on ball fields or scoreboard advertising displays may be permitted subject to review and approval by the Dayton Board of Zoning Appeals. The Board of Zoning Appeals shall have the authority to limit the size of off-premise signs in recreational areas.
- L. Public signs shall be allowed in all zones. **(Added 1/5/99)**
- M. The maximum height of all on-premise signs in the City of Dayton, TN shall be 25 feet. **(Added 10/5/15)**

3. Specific Regulations for Each Sign Classification are Outlined Below:

A. Spectacular Sign.

- 1. These signs shall be illuminated with electricity only.
- 2. All spectacular signs shall be constructed of non-combustible materials.
- 3. All spectacular signs shall comply with the applicable provisions of the National Electric Code.

B. Ground Signs.

1. A ground sign supported by wood material shall not be at any point over twenty-four (24) feet above the ground level.
2. Lighting reflectors may project beyond the face of the sign.
3. The bottom coping shall be no less than three (3) feet above the ground which space may be filled with platford decorative trim or light wooden construction.
4. Wherever anchors or supports of wood are embedded in the soil, the wood shall be pressure-treated with an approved preservative.
5. The application for a permit to construct a ground sign must be accompanied by a certification from an architect or engineer stating that the sign is designed and shall be constructed in such a manner as to comply with Section 1205 - Wind Loads, of the Standard Building Code, Southern Building Code Congress International, Inc.
6. All ground signs shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising Authorization No. 0206 and any supplements thereto.
7. All portable ground signs must be anchored to prevent them from being blown over by the wind and shall be located a minimum of twenty (20) feet from the pavement surface.

C. Roof Signs.

1. All roof signs shall be so constructed as to leave a clear space of not less than six (6) feet between the roof level and the lowest part of the sign and shall have at least five (5) feet clearance between the vertical supports thereof; a portion of a roof sign structure shall not project beyond an exterior wall.
2. Every roof sign shall be constructed entirely of steel construction, including the upright supports and braces, except that only the ornamental lattice work may be of wood construction.
3. The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building must be designed to bear the stress of these members.

D. Wall Sign.

1. Wall Signs attached to exterior walls of solid masonry, concrete or stone, shall be safely and securely attached to the same by means of metal anchors, bolts or expansion screws of not less than three-eighths (3/8) inch in diameter and shall be embedded at least five (5) inches.

Wood blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorage secured to unbraced parapet wall.

2. Temporary cloth signs with wood frames may be kept in place for a period not exceeding thirty (30) days.

E. Projection Sign.

1. All projecting signs shall be constructed entirely of metal or other non-combustible material and securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains.
2. The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guy-wires, or steel rods having net cross sectional dimension of not less than three-eighths ( $3/8$ ) inch in diameter. Such supports shall be erected or maintained at an angle of at least forty-five (45) degrees with the horizontal to resist the dead load and at an angle of forty-five (45) degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds thirty (30) square feet in one facial area, there shall be provided at least two (2) such supports on each side not more than eight (8) feet apart to resist the wind pressure.
3. All supports shall be secured to a bolt or expansion screw that will develop the strength of the supporting chain, guy-wires or steel rod, with a minimum of five-eighths ( $5/8$ ) inch bolt or lag screw, by an expansion shield. Turn buckles shall be placed in all chains, guy-wires or steel rods supporting projecting signs.
4. Chains, cables, guy-wires or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in iron supports, but such supports shall not be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated or fastened on the inside in a secure manner.
5. A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall; except that a sign erected at a right angle to the building, the horizontal width of which sign perpendicular to such wall does not exceed eighteen (18) inches may be erected to a height not exceeding two (2) feet above the roof or cornice wall or above the roof level where there is no cornice wall. A sign attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall.

F. Marquee Sign.

1. All marquee signs shall be constructed entirely of metal or non-combustible material and may be attached to, or hung from a marquee, and such signs when hung from a marquee shall be at least nine (9) feet at its lowest level above the sidewalk or ground level.
2. Marquee signs shall not extend outside the line of a marquee.
3. Marquee signs may be attached to the sides and front of a marquee, and such sign may extend the entire length and width of said marquee, provided such sign does not extend more than six (6) feet above, nor one (1) foot below such marquee.
4. Under no circumstances shall a marquee sign have a vertical dimension greater than eight (8) feet.

G. Shingle Sign.

1. The specific regulations for the projection and wall sign should also apply to the shingle sign.

H. Billboards. **(Added 10/5/15)**

1. All billboards shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.
2. The maximum height of all billboards shall be 40 feet.
3. All billboards located on the same side of any street must be spaced at least 750 linear feet apart, measured in a straight line from the base of the billboard. In this case the side of the street a billboard is on refers to the street toward which the sign face is oriented. There is no spacing requirement between billboards on opposite sides of the street.

4. Specific Outdoor Advertising Display Regulations for Each Zoning District.

A. Signage Regulations for the R-1 Zone.

1. The following type ground signs are permitted in the R-1 Zone:
  - a. Non-illuminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.
  - b. Non-illuminated signs not more than thirty-two (32) square feet in area giving the names of the contractors, engineers, or architect, during construction of a building.
  - c. Ground Signs on church, school, cemeteries, golf courses or park grounds which serve the purpose of identifying the particular facility.

- d. All other ground signs are specifically prohibited in the R-1 zone.
2. The following types of wall signs are permitted in the R-1 zone:
  - a. Nameplates, indicating name, and house number.
  - b. Signs noting customary home occupations provided the surface area does not exceed four (4) square feet.
  - c. Church or school bulletin boards provided they do not exceed thirty-two (32) square feet in area.
  - d. All other wall signs prohibited in the R-1 zone.
3. All other types of signs are specifically prohibited in the R-1 zone.

B. Signage Regulations for the R-2 Zone.

1. All signs which are permitted in the R-1 zone are permitted in the R-2 zone.
2. In addition to the signs permitted in the R-1 zone, ground signs identifying an apartment building, townhouse development or professional office are permitted provided that the sign is not larger than thirty-two (32) square feet in area.
3. All other types of signs are specifically prohibited in the R-2 zone.

C. Signage Regulations for the R-3 Zone.

1. All signs which are permitted in the R-2 zone are permitted in the R-3 zone.
2. In addition to the signs permitted in the R-2 zone, ground signs identifying manufactured home parks and travel trailer parks are permitted provided they do not exceed thirty-two (32) square feet in area.

D. Signage Regulations for the R-4 Zone.

1. All signs which are permitted in the R-3 zone are permitted in the R-4 zone.
2. In addition to signs permitted in the R-3 zone, wall signs identifying professional offices, apartments, or other uses permitted in the R-4 zone are permitted providing those signs do not exceed thirty-two (32) square feet in area.

E. Signage Regulations for the C-1 Zone.

1. Spectacular Signs: are permitted in the C-1 zone.

2. Ground Signs: are permitted in the C-1 zone provided they do not exceed sixty (60) square feet in area.
3. Roof Signs: are permitted in the C-1 zone.
4. Wall Signs: are permitted in the C-1 zone provided that the sign is no larger than one (1) square foot for each one linear foot of building frontage occupied by the establishment.
5. Projection Signs: are permitted in the C-1 zone provided that they do not extend over the sidewalk more than two-thirds (2/3) the width of the sidewalk.
6. Marquee Signs: are permitted in the C-1 zone.
7. Shingle Signs: are permitted in the C-1 zone and the square footage requirement of the wall sign applies also to the shingle sign.
8. Mall Grouping Signs are permitted in the C-1 Zone. **(Amended 8/2/99)**

F. Signage Regulations for the C-2 Zone.

1. All the signs permitted in the C-1 zone are permitted in the C-2 zone.
2. Ground signs: may contain up to 128 square feet.
3. Wall Signs: may contain two square feet for each one linear foot of building frontage occupied by the establishment.
4. Mall Grouping Signs: may contain up to three hundred (300) square feet. **(Amended 10/5/15)**
5. Billboards: are permitted in the C-2 zone. **(Added 10/5/15)**

G. Signage Regulations for the I-1 Zone.

1. All signs permitted in the C-2 zone are permitted in the I-1 zone.

H. Signage Regulations for the I-2 Zone.

1. All signs permitted in the I-1 zone are permitted in the I-2 zone.

I. Signage Regulations for the Flood Zones.

1. No outdoor advertising sign shall be permitted in the Floodway F-1 zone. No outdoor sign shall be permitted in the Flood Fringe F-2 zone except upon review and approval of the DRPC.



5. Building Permit Required.

With the exception of "For Sale or "For Rent" signs and nameplates indicating name and house number, all new signs whether permanent or temporary must have a sign permit which shall be issued by the Dayton Building Inspector. The sign permit number shall be noted in a permanent manner on each new sign.

6. Non-Conforming Signs.

Outdoor advertising displays which are non-conforming at the time of the passage of this ordinance shall be permitted to remain as long as they are properly maintained and are not considered to be a safety hazard. If a non-conforming advertising display ceases to display advertising matter for a period of one year or is damaged beyond fifty (50) percent of its replacement value, such sign shall be considered illegal and subject to removal as outlined in part 8 of this section.

7. Outdoor Advertising Displays Must be Maintained.

All outdoor advertising displays must be maintained in such a manner so as to not to endanger the public's safety. Upon finding that a sign is a safety hazard, the Dayton Building Inspector shall give the owner of the property on which the sign is located a written notice which shall outline the corrective measures that must be completed in a maximum of thirty (30) days. If at the end of thirty (30) days the sign has not been brought into compliance, it shall be subject to removal as outlined in part 8.

8. Procedure for Removal of Illegal or Unsafe Outdoor Advertising Displays.

A sign which is not in compliance with this ordinance shall be subject to removal. The procedures which the Dayton Building Inspector shall follow to have the illegal sign removed include:

- A. The owner of the property on which the sign in question is located shall be given a written notice which shall include:
  1. A statement as to why the sign is illegal;
  2. A statement that the sign must be brought into compliance with this ordinance in thirty (30) days or the city will begin necessary court action to have the sign brought in compliance; and
  3. A statement informing the property owner that he has the right to appeal the Building Inspector's decision to the Dayton Board of Zoning Appeals.
- B. If at the end of the thirty (30) day period the sign has not been brought into compliance with this ordinance, removed, or an appeal made to the BZA, the Dayton Building Inspector shall turn this matter over to the city attorney who shall initiate the necessary legal steps. The building inspector shall also notify the property owner in writing that legal proceedings have been initiated to bring the sign in question into compliance with this ordinance.

9. Abandoned/Unused Signs:(Amended 4/29/02)

A. Definition: An unused or abandoned sign is a sign which meets any of the following criteria:

1. A sign which identifies or advertises an establishment, business, goods, services, lessor, owner or lessee which are no longer provided on the premises where the sign is located; or
2. A sign which identifies a time, event, activity, or purpose which has passed or no longer applies; or
3. Sign structures with or without a sign; or
4. A sign for which no legal owner can be found.

B. Disposition:

1. Any sign which is defined under paragraphs A(1), (3), or (4) of this subsection and which condition exists for a period of thirty (30) days and which sign is otherwise nonconforming or conforming shall be removed by the owner/user/lessee/lessor/property owner within five (5) days of the end of the thirty (30) day period.
2. Any sign defined under paragraph A(2) of this subsection shall be removed by the owner/user/lessee/lessor/property owner within three (3) days from the time the event or purpose has passed or no longer applies.

3. Removal:

- a. When Required: Any illegal, nonconforming or unused sign which is not removed from the premises by the owner/user/lessee/lessor/property owner within the time frames prescribed in this Section shall be subject to removal by the Building Inspector or his designee in accordance with the provisions and procedures detailed in this subsection. Any illegal, nonconforming or unused sign which is not removed from the premises by the owner/user/lessee/lessor/property owner within the time frames prescribed herein shall also be considered a violation of the provisions of this Ordinance and shall be subject to the maximum penalties allowed by law. Each day such violation shall continue shall constitute a separate offense.
- b. Removal by Authorities: Upon failure of owner/user/lessee/lessor/property owner to comply with the specified time requirements as set forth in this Section, the Building Inspector is hereby authorized to cause such illegal, nonconforming or

unused sign to be removed and any expense attendant thereto shall be paid by the owner, agent or person having the beneficial use of the building, structure or premises upon which the sign is located. In the event that said removal or alteration expense remains unpaid for more than thirty (30) days after said removal or alteration is performed and expense incurred by the City and a bill for same was mailed to the permittee or owner by first-class, certified or registered mail said unpaid charge shall constitute a lien upon the real estate, and the City attorney is hereby authorized, in accordance with law, to file a notice of lien in the office of the County Clerk to foreclose this lien, and to sue the owner of the real estate or sign permittee, or their agents, in a civil action to recover the money due for the foregoing service, plus all its costs as hereinafter more fully described, together with reasonable attorney's fees to be fixed by the court. Any such judgment shall be enforced in accordance with law. Included in the expenses recoverable by the City, shall be the costs of filing the notice of lien, foreclosing said lien and all litigation costs, together with all office and legal expenses incurred in connection with collection of the amount due hereunder.

Any sign removed by the Building Inspector, pursuant to the provisions herein contained, shall become the property of the City and may be disposed of in any manner deemed appropriate by the City.

- c. Failure to Remove: A failure to remove any illegal, nonconforming or unused sign and subsequent failure by the Building Inspector to duly notify the owner/user/lessee/lessor/property owner of the provisions of this Section shall not be deemed to constitute a waiver of any violations of this Ordinance, nor shall such inaction be deemed to constitute a determination that any such sign is legal, in conformity with this Ordinance, or to be given any special status. If, through administrative neglect or inaction, any owner/user/lessee/lessor/property owner is not notified of the requirements of this Ordinance within the time frames herein set forth, but is later so notified, said owner/user/lessee/lessor/property owner shall take action to either correct the illegality, nonconformity or nonuse or shall cause the sign to be removed within twenty (20) days of such notification.

- d. Appeals: Any abandoned/unused sign as defined under paragraph A of this subsection may be allowed upon recommendation by the Building Inspector for review and approval by the Dayton Board of Zoning Appeals in accordance with the provisions of Section 16.06(3)(A).

#### **14.05. ACCESSORY USE REGULATIONS.**

The uses of land, buildings, and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot.
2. Be subordinate to and serve such principal use.
3. Be subordinate in area, intent, and purpose to such principal use.
4. Contribute to the comfort, convenience, or necessity of users of such principal use.

#### **14.06. TEMPORARY USE REGULATIONS.**

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the building inspector. Said application shall contain a graphic description of the property to be utilized and a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

1. Carnival or Circus: May obtain a Temporary Use Permit in the C-2, I-1 or F-2 Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. Christmas Tree Sale: May obtain a 30-day Temporary Use Permit for the display of Christmas Trees on open lots in any district.
3. Temporary Buildings: In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
4. Real Estate Sales Office: In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved by the planning commission under the Dayton Subdivision Regulations. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six (6) month extensions. Such office

shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

5. Religious Tent Meetings: In the C-2 and F-2 Districts, a Temporary Use Permit shall be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a 30-day period.
6. Seasonal Sale of Farm Produce: In the C-1, C-2 and F-2 Districts, a Temporary Use Permit may be issued for the sale of farm produce grown locally. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five (5) month period. All structures must be set back from the roadway a minimum of thirty-five (35) feet. The setback requirement may be waived by the building inspector for carts, pick-up trucks, trailers, or other structures not left overnight if it is deemed that these temporary "structures" will not create a traffic or other safety hazard.
7. Miscellaneous Assemblies: In any district, a Temporary Use Permit may be issued for any assembly such as an outdoor music concert, political rally, etc. Such permit shall be issued for not more than a seven (7) day period.

#### **14.07. CUSTOMARY HOME OCCUPATIONS.**

A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted within the principal dwelling unit or in an approved accessory building. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. *When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the above restrictions and is compatible with the district in which said home occupation is located.* Any activity deemed by the board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation. **(Amended 6/1/15)**

#### **14.08. FEE SIMPLE RESIDENTIAL TOWNHOUSE DEVELOPMENT.**

A fee simple residential townhouse (RT) development may be permitted in the R-2, R-3 and R-4 zones subject to the following provisions:

1. Subdivision Plat Approval Procedure.

Since it is intended that the individual townhouses will be sold separately, each townhouse must occupy a separate parcel of property. Since the townhouses are joined or appear to be joined, they must be built as entire units. Adjacent townhouses cannot be easily built at different times by different builders.

Therefore, to prevent the sale of individual unbuilt lots, no individual lots can be recorded until the following subdivision and development process shall have been followed by the residential townhouse developer:

- A. Prepare a preliminary subdivision plat and a preliminary site plan according to applicable requirements,
- B. Meet with planning staff, and then the planning commission for approval of the preliminary plat and the preliminary site plan,

- C. Prepare a final subdivision plat of the desired phase or phases and complete or post bond for streets, and other future improvements,
- D. Obtain final approval of the major lots (the lots that groups of townhouses will occupy), so these lots which will be later resubdivided can be recorded to allow financing to proceed,
- E. Obtain financing for one or more multiple townhouse buildings and construct buildings as planned and any required remaining improvements,
- F. Prepare a replat showing the exact individual property lines as built upon, obtain final approval from the planning commission, record, and then,
- G. Proceed to sell individual units with their own lots in fee simple.

2. Site Plan Approval Required.

The fee simple townhouse site plan must show the following:

- A. A plan to a scale no larger than 1" per 50',
- B. Total number of units and the number of units per gross acre,
- C. The location of the buildings in relation to the lot, street and adjacent properties, and
- D. Common land area. (Note: A common land area must be set aside for recreational development. This land area shall be not less than five (5) percent of the gross land area.)

3. Required Utilities.

The residential townhouse development must be provided with adequate public sewerage and a public water system having adequately spaced fire hydrants. (Underground utilities may be required.)

4. Street Construction.

All proposed streets shall be built in accordance with the requirements in the "Dayton Subdivision Regulations." Units which would front on an existing street of a higher classification than "local" shall front instead on an access (eyebrow) street to prevent vehicles backing into the major street. New internal streets shall serve the rest of the units.

5. Required Off-Street Parking.

Two spaces (each 10' X 20' in size) shall be provided for each townhouse. These spaces shall be located entirely upon the townhouse lot and shall be directly accessible from the public street right-of-way. In addition, there shall be paved guest and overflow parking provided on commonly owned land at a ratio of one space per two (2) units.

6. Required Sidewalks.

Each residential townhouse unit shall have a concrete-based walk between the front entrance and its parking area.

7. Reconstruction.

In the event that one or more townhouse units are destroyed by fire or other causes, no structures may be placed on the vacant lot or lots except another townhouse which must be built according to the original intent of this residential townhouse use.

8. Area and Dimensional Requirements.

All buildings and lots in the residential townhouse development shall conform to the following measurements:

A. MINIMUM FLOOR AREA

<u>One Story</u>	<u>Two Story</u>	
	(1st Floor)	(Minimum Total)
850 sq. ft.	700 sq. ft.	1,000 sq. ft.

B. MINIMUM LOT AREA

2,000 sq. ft.

C. Maximum Number of Townhouse Units Per Gross Acre in Residential Townhouse Development:

Nine (9) per acre.

D. Minimum Lot Width:

Twenty (20) feet.

E. Minimum Lot Depth:

100 feet (Note: to meet front and back setbacks, lots will generally be about 110 feet deep.)

F. Minimum Public Street Frontage:

Twenty (20) feet, but twelve (12) feet is allowed on outside of street curve, provided there is twenty (20) feet of width at the building setback line and provided there are two off-street 10' x 20' spaces, either side-by-side or end-to-end.

- G. Minimum Building Line Setbacks:
  - 1. Front: 30 feet from interior street right-of-way and 30 feet from exterior street right-of-way.
  - 2. Side: None except for end units.
  - 3. Rear: 30 feet from back of any part of the building. (Patios and low decks may extend to within 15 feet.)
  
- H. Minimum Building Setback for Sideyard Adjacent to Sidestreet on Corner Lots:
 

This setback shall be the same as for the R-2, R-3 and R-4 districts of this ordinance.
  
- I. Minimum Setback from Edge of Residential Townhouse Development:
 

No building shall be located less than 35 feet from any boundary of the Residential Townhouse Development.
  
- J. Minimum Separation Between Buildings (i.e. groups of townhouses):
  - 1. end-to-end .....30 feet (excluding fireplace flues or chimneys).
  - 2. front-to-end .....40 feet.
  - 3. back-to-end .....40 feet.
  - 4. back-to-back.....60 feet.
  - 5. front-to-front .....60 feet.
  - 6. front-to-back .....60 feet.

**14.09. GENERAL LOT RESTRICTIONS.**

The following general lot restrictions shall be complied with in all districts:

- 1. One (1) Principal Structure for Each Lot:
  - A. Only one (1) principal building and its customary accessory buildings may be erected on any lot.
  - B. No building shall be erected on a lot which does not abut at least one (1) street for its entire frontage. No building shall be erected on a lot with less than forty (40) foot frontage. Such building shall conform to the lot and yard requirements of the district in which it is located (Section 14.08 is an exception to the requirement).



2. Reductions in Lot Area Prohibited.

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

3. Rear Yard Abuts a Public Street.

When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

**14.10. VISION AT STREET INTERSECTIONS.**

On a corner lot in any district, within the area formed by the centerlines of the intersecting or intercepting streets and a line joining points on such centerlines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to visions between the height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall, nor the provisions of the C-1 zone.

**14.11. GASOLINE SERVICE STATION RESTRICTIONS.**

The following regulations shall apply to all gasoline service stations:

1. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.
2. Gasoline pumps shall not be located closer than twenty-five (25) feet to any street right-of-way line.
3. Sign requirements as established in Section 14.04, shall be met.

**14.12. SWIMMING POOL RESTRICTIONS.**

The following regulations shall apply to all swimming pools:

1. No swimming pool or part thereof, excluding aprons and walks, shall protrude into any required front yard in the R-1 and R-2 Districts.
2. The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall not be less than four (4) feet in height and maintained in good condition.
3. Private swimming pools are permitted in R-1, R-2, and R-3 Districts provided that the pool is intended and is to be used solely for the enjoyment of the occupants and their guests of the property on which it is located.

### **14.13. TELECOMMUNICATIONS STRUCTURE REGULATIONS. (Added 2/1/16)**

1. Purpose.

The purpose of these regulations is to (1) protect residential and other land uses from potential adverse impacts of telecommunications structures, (2) minimize visual pollution through careful consideration of the design, screening, and siting of towers, and (3) to minimize potential damage to adjacent properties.

2. Use Permitted on Review.

In any zoning district where they are permitted, telecommunications structures shall be considered a “Use Permitted on Appeal.” All applications for the construction of telecommunication structures must go before the Dayton Board of Zoning Appeals as regulated in Section 16.07. of this ordinance. In addition to the application requirements listed in that section, applications for telecommunication structures shall also include the following:

- A. Proof of property ownership.
- B. A letter from a professional engineer certifying the proposed structure meets the requirements of all relevant building codes and meets all applicable Federal Communication Commission requirements. The letter should also include the structure’s capacity to accommodate collocating antennas.
- C. Drawings of the proposed structure prepared by a licensed surveyor or engineer. In addition to those requirements laid out in section 16.07. of this ordinance, these drawings must include:
  - a. Existing or proposed means of ingress and egress to the structure.
  - b. All buildings and roads within a 200 foot radius of the structure unless the proposed structure is taller than 200 feet. In that case, all buildings and roads within a radius of 100% of the proposed structure’s height must be shown.
  - c. All proposed landscaping.

If an application for a telecommunication structure is denied by the Board of Zoning Appeals, the Board shall submit to the applicant the reason for denial in writing as required by the Federal Communication Commission.

3. Setbacks.

The following setbacks are required for all telecommunications structures:

- A. All telecommunication structures shall be setback a distance of 200 feet or 100% the height of the tower, whichever is greater, from all residences and roads.
- B. Telecommunication and accessory structures shall meet the setback requirements of the zoning district in which they are located.

4. Landscaping.

An eight (8) foot high, eight (8) foot deep landscaped buffer is required surrounding the base of a telecommunication structure. This buffer shall consist of trees, shrubs, and other vegetation. This requirement can be waived by the BZA if the proposed structure is located in a well-forested area or in a location where the natural topography provides adequate shielding.

5. Obsolete Towers.

In the event that a telecommunication structure has been out of operation for a period of six (6) or more months, the owner of the structure shall be responsible for its removal. A time period of one (1) year shall be provided from the time the structure is deemed to be out of service for the owner to either activate the structure or remove it from the site. Failure to remove the structure at the end of this time period shall be subject to penalties outlined in Chapter 16 of this ordinance.

## CHAPTER 15

### EXCEPTIONS AND MODIFICATIONS

#### SECTION

##### 15.01. SCOPE

##### 15.02. NONCONFORMING USES

##### 15.03. EXCEPTIONS TO HEIGHT LIMITATIONS

##### 15.04. LOTS OF RECORD

##### 15.05. EXCEPTIONS TO FRONT SETBACK REQUIREMENT

##### 15.06. ABSOLUTE MINIMUM LOT SIZE

#### 15.01. SCOPE.

Chapter 15 of this ordinance is devoted for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Chapter 14.

#### 15.02. NONCONFORMING USES.

It is the intent of this ordinance to recognize that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to so administer the elimination of nonconforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings, and structures existing at the time of the passage of this ordinance or any amendment thereto, shall be allowed to remain subject to the following provisions:

1. An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same or higher classification, providing, however, that the establishment of another nonconforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
2. A nonconforming use of land shall be restricted to the area occupied by such use as of the effective date of this ordinance. A nonconforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.
3. When a nonconforming use of any structure of land, excepting nonconforming manufactured homes or mobile home parks has been discontinued for a period of six (6) months, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance. Immediately upon the removal of a nonconforming manufactured home or discontinuance of a nonconforming manufactured home park, the nonconformity of such structure and use of land shall lapse.
4. Any nonconforming building or nonconforming use, which is damaged by fire, flood, wind, or other act of God or man, may be reconstructed and used as before,

if it be done within six (6) months of such damage, unless damaged to extent of more than sixty (60) percent of its fair market value immediately prior to damage in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

5. A nonconforming building or building housing a nonconforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs of alterations required for structural safety.
6. An existing nonconforming use or building which is located within the F-1 Floodway District and/or F-2 Floodway Fringe District shall meet the requirements of those districts
7. An existing nonconforming single family dwelling which is located within the C-1, Central Business District and the C-2, General Commercial District may be reconstructed and used as before. **(Added 3/1/2004)**

### **15.03. EXCEPTIONS TO HEIGHT LIMITATIONS.**

The height limitations of this ordinance can be exceeded provided the following conditions are met.

1. The developer must present, at the time he applies for a building permit, a copy of the building plans which have been approved by the Dayton Fire Chief. These plans must show all of the following:
  - A. A wet standpipe riser with one and one-half (1 1/2) inch fire hose connections,
  - B. A wet automatic sprinkler protection system for the entire building
  - C. Enclosed exit stairways,
  - D. Smoke and heat detection units, and
  - E. Any other fire protection and prevention requirements which the fire chief feels are necessary for the building.

The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association Standards (NFPA).

2. Before the building can be occupied, the developer must secure a statement from the fire chief that the fire protection systems have been installed according to the plans and that the system is functioning properly.
3. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials.

#### **15.04. LOTS OF RECORD.**

The following provisions shall apply to all existing lots of record:

1. Where the owner of a lot consisting of one or more adjacent lots or official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the Board of Zoning Appeals is possible.
2. No lot which is not or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
3. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

#### **15.05. EXCEPTIONS TO FRONT SETBACK REQUIREMENTS.**

The front setback requirement of this ordinance for structures shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

#### **15.06. ABSOLUTE MINIMUM LOT SIZE.**

In no case shall the Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building line is less than fifty (50) feet and/or whose total lot area is less than seven thousand five hundred (7,500) square feet.

## CHAPTER 16

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 16.01. ADMINISTRATION OF THE ORDINANCE
- 16.02. THE ENFORCEMENT OFFICER
- 16.03. BUILDING PERMITS
- 16.04. TEMPORARY USE PERMITS
- 16.05. CERTIFICATE OF OCCUPANCY
- 16.06. CITY BOARD OF ZONING APPEALS
- 16.07. PROCEDURE FOR AUTHORIZING USES PERMITTED ON APPEAL
- 16.08. VARIANCES
- 16.09. AMENDMENTS TO THE ORDINANCE
- 16.10. REMEDIES
- 16.11. PENALTIES FOR VIOLATIONS
- 16.12. CONFLICT WITH OTHER REGULATIONS
- 16.13. SEPARABILITY
- 16.14. EFFECTIVE DATE

#### 16.01. ADMINISTRATION OF THE ORDINANCE.

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

#### 16.02. THE ENFORCEMENT OFFICER.

The provisions of this ordinance shall be administered by the Dayton Building Inspector. The building inspector shall administer and enforce this ordinance and, in addition, he/she shall:

1. Issue all Building Permits and make and maintain records thereof.
2. Issue all Certificates of Occupancy and make and maintain records thereof.
3. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
4. Maintain and keep current zoning maps, and records of amendments thereto.
5. Conduct inspections as required in this ordinance and such other inspections as are necessary to ensure compliance with the various other general provisions of this ordinance. The building inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his/her authorized duties.

6. Administer and enforce the city's floodplain management program. Duties of the building inspector shall include, but not be limited to:
  - A. Advise permittee that additional Federal and State permits may be required, and if specific Federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.
  - B. Notify adjacent communities and the Local Planning Assistance Office, Division of the Tennessee Department of Economic and Community Development, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - C. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - D. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 13.07, Subsection 2A (Development Requirements for Flood Hazard Areas, Specific Requirements).
  - E. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Section 13.07, Subsections 2A and B.
  - F. When floodproofing is utilized for a particular structure, the building inspector shall obtain certification from a registered professional engineer or architect.
  - G. Where interpretation is needed as to the exact location of the boundaries of the F-1 and F-2 Districts (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.
  - H. When base flood elevation data has not been provided in accordance with Section 13.07, Subsections 2A and B then the building inspector shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other consultants in order to administer the provisions of the F-1, F-2 Districts.

### **16.03. BUILDING PERMITS.**

1. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, fill or excavate land lying within any flood hazard areas, or to erect or construct a



sign of any description, or to install or alter fire-extinguishing apparatus, elevators, engines, or to install a steam boiler, furnace, heater, incinerator, or other heat producing apparatus, or other appurtenances, the installation of which is regulated by this code, or to cause any such work to be done, in excess of two hundred (\$200.00) dollars shall first make application to the building official and obtain the required permit therefore.

2. A general permit shall carry with it the right to install in any building or structure, or part thereof, heating apparatus, elevators, sidewalk elevators, vaults, chutes, coal holes, lifts, cranes, derricks, steam power boilers, steam, oil, gas or vapor engines, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit; but where these are not shown on the drawings and covered by the specifications submitted with said application, special permits shall be required.
3. Minor repairs may be made with the approval of the building official without a permit; provided that such repairs shall not violate any of the provisions of this code.

#### **16.04. TEMPORARY USE PERMITS.**

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Dayton Building Inspector. Application for a Temporary Use Permit shall be made in writing to the building inspector on forms provided for that purpose.

#### **16.05. CERTIFICATE OF OCCUPANCY.**

1. No land or building or their structure or part thereof hereafter erected, moved, or altered in its use shall be used until the building inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) working 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 a final inspection thereof, and to issue a Certificate of Occupancy, if the building or premises or part thereof is found to conform with the provisions of this ordinance; of, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

2. Certificate of First Floor Elevation and/or Floodproofing Requirements.

Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever constructions means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building inspector a certification of the lowest floodproofed elevation, or the elevation of the lower portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The building inspector

shall review the flood elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

#### **16.06. CITY BOARD OF ZONING APPEALS.**

A Dayton Board of Zoning appeals is hereby established in accordance with Section 13-7-205 through 13-7-207 of the Tennessee Code Annotated. The Board of Zoning Appeals shall consist of three (3) members appointed by the mayor. The membership shall consist of one (1) designated member of the planning commission who is not an elected official, and two (2) members appointed at large. The board members shall be appointed to three (3) year terms; however, the initial appointments shall be arranged so that the term of one (1) member will expire each year.

1. Procedure.

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

2. Appeals to the Board.

An appeal to the Dayton Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing an application (see appendix) with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person by agent, or by attorney.

3. Powers of the Board.

The Dayton Board of Zoning Appeals shall have the following powers as empowered by **Tennessee Code Annotated** 13-7-207.

- A. 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 of enforcement of any provision of this ordinance.
- B. Special Exceptions: To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special

questions upon which the Board of Zoning appeals is authorized to pass.

- C. Variances: To hear and decide applications for variances from the terms of this ordinance.

#### **16.07. PROCEDURE FOR AUTHORIZING USES PERMITTED ON APPEAL.**

The following procedure is established to provide procedures for appeal of a proposed use by the Board of Zoning Appeals. the procedure shall be the same whether review is required by this ordinance or whether a review is requested by the building inspector to determine whether a proposed use is potentially noxious, dangerous, or offensive. This procedure shall also be used in submitting special exceptions to the Board of Zoning Appeals.

##### 1. Application.

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended use of the site, the names of the property owners, and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the BZA may require. Application for a building permit shall be made in writing to the building inspector on forms provided for that purpose. It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation, filling or construction until such plans have been inspected in detail and found to be in conformity with this ordinance. To this end, the application for a building permit for excavation, filling, construction, moving, or alteration, shall be accompanied by a plan or plat drawn to a scale showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed excavation, filling, construction, moving, or alteration is in conformance with this ordinance:

- A. The actual shape, location, and dimensions of the lot to be built upon;
- B. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot;
- C. The existing and intended use of all such buildings or other structures;
- D. Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- E. In areas that are subject to flooding, the following additional information is required:
  - 1. Elevation in relation to mean sea level (MSL) of the lot;
  - 2. MSL elevation of the lowest floor (including basement) of all structures;

3. MSL elevation to which any nonresidential structure is proposed to be floodproofed.

F. The location of the foregoing in relation to any stream within the vicinity.

If the proposed excavation, filling, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If an application for a building permit is not approved, the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this ordinance, and building permits shall be void after six (6) months from date of issue, unless substantial progress on the project has been made by that time.

2. Restrictions.

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

3. Validity of Plans.

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

4. Time Limit.

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

5. Factors to Consider within Flood Hazard Areas.

In reviewing a request for relief from the first floor elevation requirement, the planning commission shall consider all technical data, all relevant factors, all standards specified in other sections of this ordinance, and:

- A. The danger that materials may be swept onto their lands to the injury of others;
- B. The danger of life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. The importance of the services provided by the proposed facility to the community;
- E. The necessity to the facility of a waterfront location, where applicable;

- F. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- G. The compatibility of the proposed use with existing and anticipated development;
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- K. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

6. Conditions for Granting Relief Within Flood Hazard Areas.

In granting relief from the first flood elevation requirement, the Board of Zoning Appeals shall adhere to the following conditions:

- A. Relief shall only be granted upon (1) a showing of good and sufficient cause; (2) a determination that failure to grant such relief would result in exceptional hardship to the applicant; and, (3) a determination that the relief granted will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- B. Any applicant to whom the relief is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built starting that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- C. The building inspector shall maintain the records of all appeal actions and report any reliefs granted from first floor elevation requirement to the Federal Emergency Management Agency upon request.

## **16.08. VARIANCES.**

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

### 1. Application.

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

### 2. Hearings.

Upon receipt of an application and ten (\$10.00) dollar fee, the board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

### 3. Standards for Variances.

In granting a variance, the board shall ascertain that the following criteria are met as outlined in Subsection 3 of **Tennessee Code Annotated** Section 13-7-207.

- A. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the board, do not apply generally in the district;
- B. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested;
- C. For reasons fully set forth in the findings of the board, the aforesaid circumstances of conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss of value shall not justify a variance. There must be a deprivation of beneficial use of land.
- D. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development;
- E. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefore.

## 16.09. AMENDMENTS TO THE ORDINANCE.

### 1. General.

The city council may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions wherever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment. However, no amendment shall become effective unless it be first submitted to and approved by the planning commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the chief legislative body.

### 2. Initiation of Amendment.

Amendments may be initiated by the city council, the planning commission, or by all of the owners of property affected by the proposed amendment.

### 3. Application for Amendment - Fee. (Amended 9/8/2003)

An application by an individual for an amendment shall be accompanied by a fee of twenty-five (\$25.00) dollars payable to the City of Dayton. The application shall be made on the form in the appendix and shall also be accompanied by maps, drawings, and data necessary to demonstrate that the proposed amendment is in general in conformance with the General Plan of the City of Dayton and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with the application.

### 4. Review and Recommendation by the Planning Commission.

The planning commission shall review and make recommendations to the city council on all proposed amendments to the ordinance.

### 5. Grounds for an Amendment.

The planning commission in its review and recommendation, and the city council in its deliberations, shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

- A. The amendment is in agreement with the general plan for the area.
- B. It has been determined that the legal purposes for which zoning exists are not contravened.
- C. It has been determined that there will be adverse effects upon adjoining property owners unless such adverse affect can be justified by the overwhelming public good or welfare.
- D. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

- E. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan, and consequently, the zoning map.

6. Public Hearing and Notice of Hearing.

A public hearing shall be held on all proposed amendments to this ordinance. Notice of such hearing shall be in a newspaper of general circulation within the City of Dayton at least fifteen (15) days, but not more than thirty (30) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification, and it may contain a graphic illustration of the area.

7. Notice of Enactment.

Upon enactment of an amendment to the ordinance, a written notice of such shall be published in a newspaper of general circulation within the City of Dayton within five (5) working days following such enactment announcing the new zoning classification of property affected. The change shall become effective upon the date of the announcement.

8. Amendments Affecting Zoning Map.

Upon enactment of an amendment to the zoning map which is part of this ordinance, the zoning administrator shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance. Such amendment shall not become effective until this action is accomplished. Technically, no zoning change to date has been legal due to this provision.

9. Effect of Denial of Application.

Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases.

- A. Upon initiation by the city council, or planning commission;
- B. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
- C. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

**16.10. REMEDIES.**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighborhood property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such



unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**16.11. PENALTIES FOR VIOLATIONS.**

Upon conviction, any person violating any provision of this ordinance shall be fined not less than two (\$2.00) dollars nor more than fifty (\$50.00) dollars for each offense. Each day such violations continue shall constitute a separate offense.

**16.12. CONFLICT WITH OTHER REGULATIONS.**

Whenever the regulations of this ordinance require more restrictive standards than are required in or under any other statute; the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards that are required by this ordinance, the provisions of such statute shall govern.

**16.13. SEPARABILITY.**

Should any action or provisions of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the facility of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**16.14. EFFECTIVE DATE.**

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

**CERTIFIED BY THE DAYTON REGIONAL PLANNING COMMISSION**

**DATE** \_\_\_\_\_

## **Appendix A – Municipal Floodplain Ordinance 502**



1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

**Section D.        Objectives**

The objectives of this Ordinance are:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

**ARTICLE II.        DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they

have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

**"Accessory Structure"** shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

**"Act"** means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

**"Addition (to an existing building)"** means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered **"New Construction"**.

**"Appeal"** means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

**"Area of Shallow Flooding"** means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

**"Area of Special Flood-related Erosion Hazard"** is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

**"Base Flood"** means the flood having a one percent chance of being equalled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.

**"Breakaway Wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**"Building"**, means any structure built for support, shelter, or enclosure for any occupancy or storage (See **"Structure"**)

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

**"Elevated Building"** means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

**"Emergency Flood Insurance Program"** or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

**"Erosion"** means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

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

**"Existing Construction"** means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the

community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

**"Existing Structures"** see **"Existing Construction"**.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

**"Flood Insurance Study"** is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards

and containing flood profiles and water surface elevation of the base flood.

**"Floodplain"** or **"Flood-prone Area"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**"Flood Protection System"** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**"Flood-related Erosion"** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

**"Flood-related Erosion Area"** or **"Flood-related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**"Flood-related Erosion Area Management"** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.



**"Floor"** means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or

b. Directly by the Secretary of the Interior.

**"Levee"** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**"Levee System"** means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term **"Manufactured Home"** does not include a **"Recreational Vehicle"**, unless such transportable structures are placed on a site for 180 consecutive days or longer.

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

**"New Construction"** means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

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

**"100-year Flood"** see **"Base Flood"**.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

**"Recreational Vehicle"** means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

**"Special Hazard Area"** means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

**"Start of Construction"** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a

structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

**"Structure"**, for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum

necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Substantially Improved Existing Manufactured Home Parks or Subdivisions"** is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**"Variance"** is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### **ARTICLE III. GENERAL PROVISIONS**

#### **Section A. Application**

This Ordinance shall apply to all areas within the incorporated area of Dayton, Tennessee.

#### **Section B. Basis for Establishing the Areas of Special Flood Hazard**

The Areas of Special Flood Hazard identified on the Dayton, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47143C0219D, 47143C0236D, 47143C0238D, 47143C0307D, 47143C0310D and 47143C0326D, dated November 5, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

#### **Section C. Requirement for Development Permit**

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

**Section D. Compliance**

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

**Section E. Abrogation and Greater Restrictions**

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

**Section F. Interpretation**

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

**Section G. Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Dayton, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

**Section H. Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Dayton, Tennessee from taking such other lawful actions to prevent or remedy any violation.

**ARTICLE IV.        ADMINISTRATION**

**Section A.        Designation of Ordinance Administrator**

The Dayton Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

**Section B.        Permit Procedures**

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

1. Application stage

- a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- c. Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article IV. Section B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the Administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**Section C. Duties and Responsibilities of the Administrator**

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

1. Review of all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.



4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
5. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Article IV. Section B.
6. Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Article IV. Section B.
7. When flood proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Article IV. Section B.
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FIRM meet the requirements of this Ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All applicable data including elevations or flood proofing

certifications shall be recorded as set forth in Article IV. Section B.

10. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

**ARTICLE V.           PROVISIONS FOR FLOOD HAZARD REDUCTION**

**Section A.           General Standards**

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

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

## **Section B. Specific Standards**

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

1. Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Article V. Section B.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a

level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV. Section B.

3. Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
    - 1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - 2) The bottom of all openings shall be no higher than one foot above the finish grade; and
    - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Article V. Section B. of this Ordinance.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - 1) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
  - 2) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.
- c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Article V. Section B. 4 of this Ordinance.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed on identified flood hazard sites must either:
  - 1) Be on the site for fewer than 180 consecutive days;
  - 2) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect

type utilities and security devices, and has no permanently attached structures or additions.

- 3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

#### 5. Standards for Subdivisions

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

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five acres in area.

#### **Section C. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and With Floodways Designated**

Located within the Areas of Special Flood Hazard established in Article III. Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering

practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Article V.

**Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated**

Located within the Areas of Special Flood Hazard established in Article III. Section B, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article V. Section B.

**Section E. Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)**

Located within the Areas of Special Flood Hazard established in Article III, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Article III, then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Article

V. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:

2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article V, Section B, **and** "Elevated Buildings".

**Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)**

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1') foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article V, Section B, **and** "Elevated Buildings".
2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility



and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1') foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Administrator as set forth above and as required in Article IV, Section B.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
4. The Administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

**Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)**

Located within the areas of special flood hazard established in Article III. Are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Article IV. And Article V. Section A. shall apply.

**Section H. Standards for Unmapped Streams**

Located within (City of Dayton), Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Dayton.

2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with Article IV.

**ARTICLE VI.        VARIANCE PROCEDURES**

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Dayton, Tennessee.

**Section A.        Board of Zoning Appeals**

1. The Dayton Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
2. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a. The danger that materials may be swept onto other property to the injury of others;
  - b. The danger to life and property due to flooding or erosion;
  - c. The susceptibility of the proposed facility and its contents to flood damage;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
  - j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Floodplain Review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
  - 5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

**Section B.           Conditions for Variances**

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
- 2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
- 3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
- 4. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**ARTICLE VII. LEGAL STATUS PROVISIONS**

**Section A. 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 Dayton, Tennessee, the most restrictive shall in all cases apply.

**Section B. Validity**

If 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.

**Section C. Effective Date**

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of Dayton, Tennessee, and the public welfare demanding it.

Recommended by the City of Dayton Municipal Planning Commission.

June 16, 2008  
Date

Public Hearing.

August 4, 2008  
Date

Approved and adopted by the City of Dayton, Tennessee Mayor and Board of Mayor and Council of Dayton, TN.

9/9/08  
Date

/s/  
Mayor of Dayton, Tennessee

Attest: /s/  
City Recorder

1st Reading August 4, 2008

2nd Reading September 8, 2008

