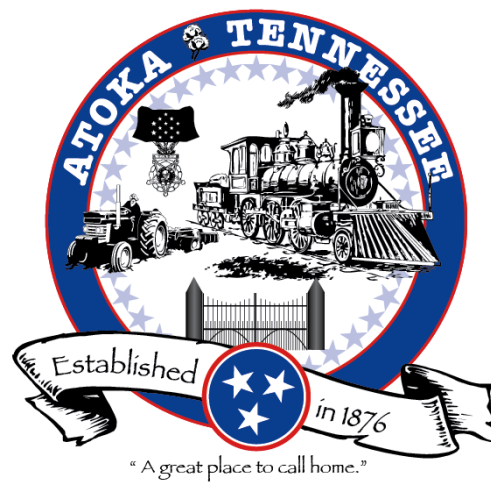


MUNICIPAL ZONING ORDINANCE FOR THE TOWN OF ATOKA, TENNESSEE



**FOUND UNDER THE TOWN OF ATOKA'S
MUNICIPAL CODE: TITLE 14 - CHAPTER 2.01**

ADOPTED: MARCH 1979

READOPTED: SEPTEMBER 1996ⁱ

UPDATED – May, 2018

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Prepared for
ATOKA MAYOR AND BOARD OF ALDERMEN

W Daryl Walker, Mayor

Darry Marshall, Vice Mayor

Danny Feldmayer

Brett Giannini

Mike Joyner

Walker Adams

Barry Akin

Revised and Updated by the
ATOKA MUNICIPAL/REGIONAL PLANNING COMMISSION

Bob Braswell, Chairman

Kevin Chambers, Vice-Chair

Vicki Shipley, Secretary

Noel Howe

Danny Feldmayer

Barry Akin

Lance Scroggins

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TITLE 14-201 ARTICLE 1 - GENERAL PROVISIONS RELATING TO ZONING

1.1 Authority - An ordinance, pursuant to the authority granted by Tennessee Code Annotated Sections 13-7-201 through 13-7-210, authorizing the Town of Atoka, Tennessee, to establish districts or zones within its corporate limits; to regulate, within such district, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings, and structures, to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

1.2 Title - This ordinance shall be known as the "Zoning Ordinance of Atoka, Tennessee." The map herein referred to, which is identified by the title "Zoning Map of Atoka, Tennessee," and the signature of the Mayor attested by the Town Recorder, and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

1.3 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 health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the street, to secure safety from fire, 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, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, of the character of each district and its peculiar suitability of particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

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TITLE 14-201 ARTICLE 2 - DEFINITIONS

Definitions - Except as specifically defined herein all words used in this Ordinance have their customary dictionary definitions where not inconsistent with the context of the ordinance. The term "shall" is mandatory. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure". In case of conflict between building code or dictionary definitions with the definitions contained in this Ordinance, the definition herein shall prevail. The categories established herein to define the permitted uses are derived from the Standard Land Use Coding Manual and adapted to the particular needs of the Town of Atoka.

Accessory Building and Use: A use or building on the same lot with and of a nature customarily incidental and subordinate to the principle use or building. For purposes of this Ordinance, such structures include, but are not limited to, storage sheds, workshops, satellite dishes and pads.

Alley: A thoroughfare which affords only a secondary means of access to the abutting property and has a right-of-way width of thirty (30) feet or less.

Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Apartment: One unit, including living, cooking and sanitary facilities in a multi-family dwelling.

Automobile Storage Yard: Any land used for the parking and/or storage of one or more abandoned or impounded operable vehicles for which compensation is received.

Banner: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Boarding House or Rooming House: A building in which lodging and/or meals is provided for compensation for two or more persons for a prearranged time period.

Buffer Strip: A strip of land, established to protect one type of land use from another with which it is incompatible and which is landscaped and kept in perpetual open space uses.

Building: Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property.

Building, Height of: The vertical distance as measured from the finished grade at the front line of the building to the highest point of the structure.

Building Line - Front, Side, Rear: Lines that define the required area for the front side and rear yards, as set forth in this Ordinance. This line is usually fixed parallel to the lot line and is equivalent to the required yard.

Building, Main or Principal: A building in which the primary use of the lot is conducted.

Definitions

Building marker: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Business Service: Establishments which provide aid or merchandise to retail trade establishments including advertising firms; consumer and mercantile credit reporting and collection firms; duplicating, mailing and stenographic services; dwelling and building cleaning services; photo finishing; and trading stamp services; excluding warehousing and storage services. (See Code 63 in the Standard Land Use Coding Manual).

Building Sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

Carport: A canopy attached to the main building, open and to remain open on two sides providing a sheltered place for parking an automobile and for entering and lighting from said automobile.

Changeable copy sign: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face of the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable sign for purposes of this ordinance.

Child Care: Refers to the various arrangements made by parents for the care outside their home of children less than 17 years of age, for less than 24 hour periods as provided in the Tennessee Code Annotated, as well as all pertinent rules, regulations, and standards of the Tennessee Department of Human Services.

Child Care Facility: A building or structure used for the care of children as defined herein. Such a facility normally includes one of the following types:

Family Day Care Home: A home operated by any person who receives pay for providing less than 24 hour supervision and care, without transfer of custody, for 5, 6, and 7 children under 17 years of age who are not residents of the household. A license is not required for a home providing care for fewer than 5 children.

Group Day Care Home: Any place operated by a person, social agency, corporation, institution, or other group which receives 8 or more children under 17 year of age less than 24 hours per day for care outside their own homes, without transfer of custody. A group day care home may care for no more than 12 children.

Day Care Center: A place operated by a person, social agency, corporation, institution, or other group that receives pay for the care of 13 or more children under 17 years of age for less than 24 hours per day, without transfer of custody.

Definitions

Clinic: An establishment housing facilities for medical or dental diagnosis and treatment exclusive of major surgical procedures for patients who are not kept overnight on the premises.

Commercial message: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Condominium: An ownership arrangement in which the buyer purchases only a dwelling unit and does not receive the title to any real property. This term may apply to either apartments or townhouses.

Cultural Activity: Any institution concerned with the appreciation of nature and the humanities such as but not limited to museums, art galleries, historic sites and aquariums. See Code 71 in the Standard Land Use Coding Manual.

Driveway: A paved or gravel way, on private property, providing access from a public way, street or alley, to the main buildings, carport, garage, parking space or other portion of the premises.

Dwelling: Any building or portion thereof which is designed for or used for human residential habitation. For the purpose of this Ordinance the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

Dwelling, Attached: A one-family dwelling attached to two or more one-family dwellings by common vertical walls, and each dwelling located on a separate lot. This shall include zero lot line development and patio homes.

Dwelling, Single-family - Detached: A building designed for or occupied exclusively by one (1) family which has no connection by a common wall to another building or structure similarly designed.

Dwelling, Multi-family: A building designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Patio Home: A one-family dwelling on a separate lot with open space setbacks on three (3) sides and with a court.

Dwelling, Semi-Attached: A one-family dwelling attached to a one-family dwelling by a common vertical wall or walls and each dwelling located on a separate lot. This shall include two-family townhouses, zero lot line development and patio homes.

Dwelling, Townhouse: An attached residential dwelling unit for occupancy by one (1) family constructed in a row with each unit consisting at least two (2) stories and each dwelling unit located on a single lot. Each dwelling unit is separated from the adjoining unit in each story by an adjoining fire resistant wall that has no opening in it and extends from the lowest floor through the roof with each dwelling unit having independent access to the exterior in the ground floor. For the purpose of this ordinance a townhouse designation shall apply to three (3) or more units built contiguous to each other - the definition includes townhouses and condominiums. This definition does not preclude condominium standards as set forth in the Southern Standard Building Code.

Dwelling, Two-family (duplex): A building designed to be occupied by two families, living independently of each other having one wall common to both dwelling units, and located on one lot.

Definitions

Dwelling Unit: One or more rooms designed as a unit for occupancy by one (1) family for cooking, living, and sleeping purposes, which is part of a two-family duplex, townhouse, or multi-family structures.

Educational Services: Established schools including primary, secondary, universities, colleges, junior colleges and various private facilities such as correspondence schools and art, dance and music schools, (See Code 68 in the Standard Land Use Coding Manual).

Enforcement Officer: The Codes Enforcement Officer/Building Inspector of the Town or his or her designee.

Essential Service: The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communications, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings or sub-stations reasonably necessary for the furnishing of adequate services by such public utilities or municipal departments or commissions, or for the public health or safety or general welfare.

Family: One or more persons related by blood, marriage, or other legal arrangement, or group of unrelated individuals, not to exceed two persons per bedroom of the house occupied, living as a single non-profit housekeeping unit.

Finance, Insurance and Real Estate Services: Establishments that provide banking or bank related functions and insurance and real estate brokers. See Code 61 in the Standard Land Use Coding Manual.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, or other entity.

Freestanding sign: Any sign supported by structures of supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Game Room: An establishment which provides arcade type entertainment's including such items as pinball machines, video games and pool tables.

Garage, Private: A building or portion thereof for the storage of motor vehicles owned or used by the residents.

Governmental Agency: An agency of the Federal, State or the local governmental or any combination thereof.

Grade: The ground elevation used for the purpose of regulating the height of buildings. The ground elevation used for this purpose shall be the average of the finished ground elevations at the front line of the building.

Gross Floor Area: The total floor area, including basements, mezzanines and upper floors, if any, expressed in square feet measured from center lines of joint partitions and exteriors of outside walls.

Habitable Space: Areas within a building designed and/or used as living quarters for human beings.

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Half Story: A story under a sloping roof, the finished floor area which does not exceed one half the floor area of the floor immediately below it, or a basement used for human occupancy, the floor area of the part of the basement thus used not to exceed fifty (50) percent of the floor area of the floor immediately above.

Health Officer: The term "Health Officer" shall mean health officer for the County of Tipton or his authorized representative.

Hospital: An establishment that provides outpatient, inpatient and emergency services of a medical, surgical and obstetrical nature to ill or injured human patients.

Incidental Home Occupation: A venture for profit which is incidentally conducted in a dwelling unit as an accessory to the residential use provided that: the venture is conducted in the principal building; all persons engaged in the venture are residents of the dwelling unit; no more than twenty (20) percent of the total ground floor area is used for the venture and no evidence of the venture is visible from any public way. Incidental home occupations shall include: arts and crafts; dressmaking and sewing; individual instruction of music or art; individual tutoring; professional services where clients are served one at a time and distributor type sales of merchandise such as Amway or Avon in which clients generally do not come to the residence.

Incidental sign: A sign generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only," "telephone", and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Institution: A building occupied or operated by a non-profit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social, educational or similar services of an eleemosynary character to the public.

Junk or Salvage Yard: Any land or building used for the abandonment, storage, keeping, collecting or bailing of paper, rags, scrap metals or other scrap or discarded materials. Any land or building used for the storage, demolition, dismantling or salvaging of inoperable vehicles, machinery or parts thereof.

Loading Space: An off-street space on the same lot with a building or group of buildings for temporary parking of a vehicle while loading and unloading merchandise or materials.

Lot: A legally recorded parcel of land.

Lot Area: The total horizontal area included within lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.

Lot of Record: A parcel legally recorded in the Office of the Tipton County Register of Deeds at the date of the adoption of this Ordinance.

Lot Coverage: The lot area covered by all buildings located therein.

Lot Width: The horizontal measurement at the building line.

Definitions

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Medical Services: Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent and rest home services. See Code 651 in the Standard Land Use Coding Manual.

Mobile Home: A factory-assembled, movable dwelling unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, to be used with or without a permanent foundation for permanent occupancy, but with the necessary service connections for required utilities, and distinguishable from other types of permanent dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle.

The character of a mobile home as a non-permanent dwelling shall not be changed in the view of this Ordinance by removal of the wheels and/or carriage or placement on a permanent foundation. A travel trailer is not to be considered as a mobile home.

Mobile Home Park: Any plat of ground upon which two or more mobile homes are parked for occupancy as dwelling units.

Mobile Home Space: An area of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Non-conforming Sign: Any sign that does not conform to the requirements of this ordinance.

Non-conforming Use: Any use of building on premises which lawfully existed prior to the adoption or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located.

Pads: The surface on which a mobile home is located consisting of concrete footings and a masonry block or steel pier support for the mobile home.

Park: An open area set aside for leisure activities which is not used for the operation of a profit making venture, such as, but not limited to playgrounds, athletic or play fields and picnic areas.

Parking Space Required: A paved and properly drained area enclosed or unenclosed required by this Ordinance to be permanently reserved for parking one (1) motor vehicle. Each required parking space shall have a minimum area of two hundred (200) square feet and not less than ten (10) feet wide, exclusive of driveways, and shall be connected with a public street, alley or by a paved driveway affording safe and convenient ingress and egress. Except on lots occupied by single-family and two-family dwellings, parking spaces and driveways shall be so arranged as to provide for both ingress and egress by forward motion of the parked or parking vehicle.

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from, a rope, wire, or string, usually in series, designed to move in the wind.

Person: Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

Personal Services: Establishments that provide services to persons or households, crematory services and cemeteries. See Code 62 in the Standard Land Use Coding Manual.

Definitions

Planting Screen: A strip of land containing trees, bushes or shrubbery which serves as a buffer between lots and/or land uses.

Plat: A map, plan, or layout indicating the location and boundaries of individual properties and which may indicate structure location and horizontal measurements.

Political Signs: Signs with the intended use of denoting a political campaign headquarters, party affiliation, or advertising of a political figure or cause.

Portable sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal Building: A building in which is conducted the primary use of the lot on which it is located.

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

Professional Services: Those services normally provided by the established professions such as, but not limited to, physicians' services, dental services, legal services, engineering services, architectural services and accounting services, not to include sanitariums, convalescent and rest home services. See Code 65 in the Standard Land Use Coding Manual.

Projecting sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Public Assembly Facility: Any of the following types of institutions or installations where community activities are typically performed such as: parochial and private clubs; lodges; meeting halls, recreation centers and areas; temporary festivals; theaters; public, parochial and private museums and art galleries; places of worship, including any structure or site such as a church, synagogue, chapel, sanctuary or cathedral, used for collective or individual involvement with a religious activity, such as rites, rituals, ceremonies, prayer and discussion; public community centers and recreational areas such as playgrounds, play fields and parks.

Public Uses: Facilities such as, but not limited to parks, schools, and offices owned and operated by governmental bodies.

Public Utility: Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery or furnishing of heat, chilled air, chilled water, light, power or water, or sewerage facilities, either directly or indirectly to or for the public. See Codes 47 and 48 except Codes 4823 and 485.

Repair Services: Those establishments which fix, mend or overhaul merchandise for households or businesses, not to include automobile body shops. See Code 64 in the Standard Land use Coding Manual.

Residential sign: Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms to all requirements of

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the zoning ordinance.

Retail Trade: Those establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Roof sign, integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches or twenty five feet from the base of the sign.

School, Parochial: An institution of learning owned and/or operated by a recognized church or religious institution.

School, Private: An institution of learning that is not parochial or public in nature.

School, Public: An institution of learning owned and/or operated by a governmental body.

Service Station: Any facility used for dispensing or sale at retail of any motor vehicle fuels.

Setback: The minimum distance required between the lot boundary and the building line as stipulated by the front, side and rear yard provisions of this Ordinance.

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Site Plan, Sketch Plan, and General Plan: A plan delineating the overall scheme of the development of a tract including all the items as specified in this Ordinance.

Story: That portion of a building included between included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy, between the topmost floor and the roof. A basement not used for human occupancy shall not be counted as a story.

Street frontage: The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Street or Road: A way for vehicular traffic, whether the road is designated as an avenue, arterial, collector, boulevard, road, highway, street, expressway, lane, alley or other way, and for the purpose of these regulations "roads" are divided into the following categories:

Arterial Street: A major street used primarily for heavy through traffic that will be so designed on the Atoka Major Road Plan.

Collector Street: A Street designed to carry traffic from minor streets to the major road system including the principal entrance streets to a residential development and the streets for major circulation within such a development. Collector streets are usually designated as such on the Atoka Major Road Plan.

Cul-de-sac or Dead-end-Street: A local street with only one outlet for which there are no plans for extension and no need for extension.

Marginal Access Street: A minor street which is constructed parallel and adjacent to an arterial street for the purpose of providing access to abutting properties and protection

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from through traffic.

Minor Residential or Local Street: A neighborhood or commercial area street used primarily for access to the abutting properties.

Street Line: The property line that bounds the right-of-way set-aside for use as a street. Where sidewalks exist and the location of the property line is questioned, the side of the sidewalk furthest from the traveled street shall be considered as the street line.

Street Center Line: The center of the surface roadway or the surveyed center line of the street.

Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary sign: Any sign that is used only temporarily and is not permanently mounted.

Temporary Structure: A factory assembled, movable building not designed or used as a dwelling unit which is constructed to be towed on its own chassis composed of a frame and wheels, to be used with or without a permanent foundation but with the necessary connections for utility services.

Total Floor Area: The area of all floors of a building including finished attics, finished basements, covered porches, and carports.

Veterinary Hospital or Clinic: Any establishment maintained and operated by a licensed veterinarian for the surgery, diagnosis and treatment of diseases or injuries of animals. Such an establishment may include accessory boarding facilities provided they are located within a building.

Wall sign: Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall or any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Warehouse: A structure used exclusively for the storage of merchandise or commodities.

Warehouse, Mini: A building or group of buildings in a controlled access and fenced compound that contains various sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of customer's goods or wares.

Window sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Yard: An open space on the same lot with a principal building open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this Ordinance. The measure of a yard shall be the minimum horizontal distance between any part of the principal building and lot or street right-of-way lines.

Yard, Front: The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building. On corner lots, the yards adjacent to both streets shall be front yards.

Yard, Side: A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal

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distance between a side lot line and the side building line.

Yard, Rear: A yard extending across the rear of a lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear building line. On all lots except corner lots, the rear yard shall be opposite the front yard. On corner lots, the rear yard shall be defined at the time the building permit is issued.

Zero Lot Line: The location of a building on a lot in such a manner that one or more of the building sides rest directly on a lot line.

Zoning District: Any section of the town for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

TITLE 14-201 ARTICLE 3 - GENERAL PROVISIONS FOR ALL ZONING DISTRICTS

General Provisions for all Zoning Districts - For the purpose of this ordinance there shall be certain general provisions which shall apply to the town as a whole.

- 3.1 Zoning Affects Every Building and Use** - No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation. However, this shall be construed as authorizing the requirement of building permits or any regulation of any building, other than setback requirements from the right-of-way of a street or alley, on lands devoted to agricultural uses. Nor shall it be construed as limiting or affecting in any way or controlling the agricultural uses of land.
- 3.2 Continuance of Non-Conforming Uses and Structures** - 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 administer the elimination of non conforming uses, buildings and structures so as to avoid an unreasonable invasion of established private property rights. Lawful non-conforming 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:
- 3.2.1** An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same classification; provided, however, that establishment of another non-conforming use of the same 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.
- 3.2.2** No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided.
- 3.2.3** Non-conforming commercial, business, or industrial uses shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.
- 3.2.4** A non conforming use of land shall be restricted to the area occupied by such use as of the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the

effective date of this ordinance.

- 3.2.5** When a non-conforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other non-conforming use.
- 3.2.6** Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before, if it occurs within twelve months of such damage, unless such damage is to the extent of more than seventy-five (75%) percent of the fair sales value immediately prior to the damage, in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.
- 3.2.7** A non-conforming building or building housing a non-conforming 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 or alterations required for structural safety.
- 3.2.8** All additions or improvements to an existing non-conforming mobile home park shall be in conformance with these regulations.
- 3.3** **Accessory Buildings**ⁱⁱ - Accessory buildings shall be erected according to the provisions of the district in which it lies.
- 3.4** **Temporary Building Permitted** - A temporary building for construction materials and/or equipment and a temporary office for the sale or rental of real property, if in connection with and incidental and necessary to a real estate development, shall be permitted in any district provided that any building permit issued for such a building shall be valid for not more than six (6) months and may be extended no more than three (3) consecutive times.
- 3.5** **Required Yard Cannot Be Used By Another Building** - No part of a yard or open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required in this ordinance for another building.
- 3.6** **Minimum Lot Width and Depth** - No dwelling shall be erected on a lot which does not abut at least one public street for at least thirty-five (35) feet and contain a minimum width of eighty (80) feet at the building setback line.
- 3.7** **Reduction 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 required for a public purpose.
- 3.8** **Rear Yard Abuts a Public Street** - When a 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, centerline of the street 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.

3.9 Signs ⁱⁱⁱ

3.9.1 Purposes - The purposes of these sign regulations are: (1) to encourage the effective use of signs as a means of communication in the Town; (2) to maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth; (3) to improve pedestrian and traffic safety; (4) to minimize the possible adverse effect of signs on nearby public and private property; and (5) to enable the fair and consistent enforcement of these sign restrictions.

3.9.2 Applicability – Effect - A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance. The effect of this ordinance, as more specifically set forth herein, is:

To establish a permit system to allow a variety of types of signs in commercial and industrial zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;

To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;

To prohibit all signs not expressly permitted by this ordinance; and,

To provide for the enforcement of the provisions of this ordinance

3.9.3 Computations - The following principles shall control the computation of sign area and sign height:

3.9.3.1 Computation of Area of Individual Signs The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

3.9.3.2 Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

3.9.3.3 Computation of Height The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest

attached component of the sign. Normal grade shall be constructed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is owned.

3.9.3.4 Computation of Maximum Total Permitted Sign Area for a Lot The permitted sum of the area of all individual signs on a lot shall be computed by applying the formula contained in Table B, maximum Total Sign Area, to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

3.9.4 Signs Allowed on Private Property with and without Permits. Signs shall be allowed on private property in the Town in accordance with, and only in accordance with, Table A. If the letters "OK" appear for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letters "NO" appear for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances. If the letter "P" appears, a permit is required. If the letter "C" appears, such sign is allowed once signed-in the office of the Codes Enforcer.

Although permitted under the previous paragraph, a sign designated by an "OK", "P" or "C" in Table A shall be allowed only if:

3.9.4.1 The sum of the area of all building and freestanding signs on the lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table B; or,

3.9.4.2 The size, location, and number of signs on the lot conform with the requirements of Tables B, which establish permitted sign dimensions by sign type, and with any additional limitations listed in Table A; or,

3.9.4.3 The characteristics of the sign conform to the limitations on characteristics listed in Table A.

3.9.5 Permits Required –If a sign requiring a permit under the provisions of this ordinance is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of Section M.

3.9.5.1 No sign shall be erected in the public right-of-way except in accordance with Section H.

3.9.5.2 No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect and with the Master Signage Plan or Common Signage Plan in effect for the property.

3.9.6 Highway 51 Overlay District –This zone (US-51 on Tables A and B) shall overlay the underlying zone district and shall be composed of an area running parallel to and 300 feet from the right-of-way of U. S. Highway 51 (SR 3) within the corporate limits of Atoka. Signs within this district shall not be stacked and shall have no more than two (2) sides. For additional regulations that apply, refer to Tables A and B. All other provisions in this ordinance shall apply.

3.9.7 Design, Construction, and Maintenance – All signs shall be designed, constructed, and maintained in accordance with the following standards:

3.9.7.1 All signs shall comply with applicable provisions of the Southern Standard Building Code and the National Electrical Code of the Town at all times.

3.9.7.2 Except for banners, flags and temporary signs, conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

3.9.8 Master or Common Signage Plan – No permit shall be issued for an individual sign requiring a permit unless and until a Master Signage Plan or a Common Signage Plan for the lot on which the sign will be erected has been submitted and approved by the Planning Commission as conforming with this section.

3.9.8.1 Master Signage Plan. For any lot on which the owner proposes to erect one or more signs requiring a permit, unless such lot is included in a Common Signage Plan, the owner shall submit to the Planning Commission a Master Signage Plan containing the following:

An accurate plot plan of the lot, at such scale as the Planning Commission may reasonably require;

Location of buildings, parking lots, driveways, and landscaped areas on such lot;

Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this ordinance; and,

An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that individual signs need not be shown.

3.9.8.2 Common Signage Plan. If the owners of two and more contiguous (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (not including any accessory building) file with the Planning Commission for such lots a Common Signage Plan conforming with the provisions of this section, a 25 percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.

3.9.8.3 Provisions of Common Signage Plan. - The Common Signage Plan shall contain all of the information required for a Master Signage Plan and shall also specify standards for consistency among all signs on the lots affected by the Plan with regard to: color scheme, location of each sign on the buildings, lettering or graphic style, material and sign proportions, and, lighting

3.9.8.4 Limit on Number of Freestanding Signs under Common Signage Plan. – The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs.

3.9.8.5 Other Provisions of Master or Common Signage Plans – The Master or Common Signage Plan may contain such other restrictions as the owners of the lots may be reasonably determined.

3.9.8.6 Consent –The Master/Common Signage Plan shall be signed by all owners or their authorized agents in such form as the Enforcement Officer shall require.

3.9.8.7 Procedures –A Master or Common Signage Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the Town for the proposed development and shall be processed simultaneously with such other plan.

3.9.8.8 Amendment –A Master or Common Signage Plan may be amended by filing a new Master or Common Signage Plan that conforms to all requirements of the ordinance then in effect.

3.9.8.9 Existing Signs Not Conforming to Common Signage Plan – If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended plan or to the requirements of this ordinance in effect on the date of submission. The Enforcement Office shall enforce this schedule.

3.9.9 Signs in the Public Right-of-Way –No sign shall be allowed in the public right-of-way, except for the following:

3.9.9.1 Permanent Signs –Permanent signs, including: public signs erected by or on behalf of a governmental body to post legal notices, identify public

property, convey public information, and direct or regulate pedestrian or vehicular traffic; Bus stop signs erected by a public transit company; Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Table A of this ordinance.

3.9.9.2 Emergency Signs – Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

3.9.9.3 Other Signs Forfeited – Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Town shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

3.9.10 Signs Exempt from Regulation under This Ordinance – The following signs shall be exempt from regulation under this ordinance:

Any public notice or warning required by a valid and applicable federal, state, or local law, regulations, or ordinance;

Any sign inside a building, attached to a window or door;

Works of art that do not include a commercial message;

Holiday lights and decorations with no commercial message;

Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort;

Temporary signs without a commercial message; and,

Signs indicating anti-theft systems and alarm systems

3.9.11 Signs Regulated as Temporary Signs –Temporary signs are permitted in all districts provided that the owner informs the Codes Enforcer. A sign-up sheet shall be located in the Codes Enforcement Office of Atoka Town Hall. The owner must list the date of erection, the type of sign and the date of removal. There will not be a fee for temporary signs. The following types of signs shall be regulated as temporary signs within the Town of Atoka and shall be removed within a maximum period of 30 days. Extensions to the 30 day maximum are granted by the Codes Enforcer Beacons; and Pennants; and Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section; and Inflatable signs and tethered balloons; and Temporary sales signs, to include but not limited to garage or yard sale signs (in accordance with current Atoka Town Code), personal business signs and signs intended to sell or distribute goods.

Table A
Signs by Type and Zoning District

District:	R-1	R-2	R-3	N-C	G-C	M	US 51	INST.
FREESTANDING								
Other	P	P	P	P	P	P	P	OK
Incidental	OK	OK	OK	OK	OK	OK	OK	OK
BUILDING								
Wall	NO	NO	NO	P	P	P	P	OK
Banner	NO	NO	NO	P	P	P	P	OK
Building Marker	OK	OK	OK	OK	OK	OK	OK	OK
Canopy Sign	NO	NO	NO	OK	OK	OK	OK	OK
Incidental	NO	NO	NO	OK	OK	OK	OK	OK
Marquee	NO	NO	NO	P	P	P	P	OK
Projecting	NO	NO	NO	P	P	P	P	OK
Residential	P	P	NO	NO	NO	NO	NO	OK
Roof, Integral	NO	NO	NO	P	P	NO	NO	OK
Suspended	NO	NO	NO	P	P	NO	NO	OK
Temporary	C	C	C	C	C	C	C	OK
Portable	NO	NO	NO	NO	NO	NO	NO	NO
MISCELLANEOUS								
Flag	OK	OK	OK	OK	OK	OK	OK	OK

Legend and Notes: **OK** Allowed without sign permit. **P** Allowed only with a sign permit from the Enforcement Officer. **NO** Not allowed **C** See Item 5 below. **1.** The “**INST.**” Category represents institutional uses permitted under the zoning ordinance in residential zoning districts, such as churches and schools. All signs are permitted for institutional uses provided that the sign does not convey a commercial message. **2.** Certain freestanding residential signs are permitted with a sign permit as required by State law. **3.** No commercial message is allowed on incidental signs that are legible from any location off the lot. **4.** Marquees, projecting signs or suspended signs may not extend into or above public right-of-way. **5.** Temporary signs are permitted without a permit in all districts, under the conditions listed in Section J. **6.** Freestanding signs that are also changeable message signs must not contain any flashing component. The message display time of a Changeable Message Sign must remain static for a minimum of four (4) seconds with a maximum change time of two (2) seconds. The brightness of a changeable message sign shall be governed by the standards of TCA 54-21-122.

TABLE B ^{iv}

Number, Dimension and Location of Individual Signs by Zoning Districts

SIGN TYPE	R-1	R-2	R-3	N-C	G-C	M	U.S. 51	INST.
FREESTANDING								
Area (sq. ft.)	4	4	4	40	81	40	300	40
Height	2	2	2	15	25	15	50	15
Setback	5	5	5	2	10	10	10	2
Number Permitted	1	1	1	1	1	1	1	1
Per Street Frontage				<i>per</i> <i>100</i> <i>linear</i> <i>feet</i>	<i>per</i> <i>100</i> <i>linear</i> <i>feet</i>	<i>per</i> <i>400</i> <i>linear</i> <i>feet</i>	<i>per</i> <i>1,000</i> <i>linear</i> <i>feet</i>	<i>per</i> <i>100</i> <i>linear</i> <i>feet</i>
BUILDING								
Area (max. sq. ft.)	4	4	4	NA	NA	NA	NA	10
Wall Area (%)	NA	NA	NA	10%	20%	5%	5%	NA

3.9.12 General Permit Procedures –The following procedures shall govern the application for and issuance or, all sign permits under this ordinance, and the

submission and review of Common Signage Plans and Master Signage Plans.

3.9.12.1 Applications – All applications for sign permits of any kind and for approval of a Master or Common Signage Plan shall be submitted to the Enforcement Officer on an application form or in accordance with application specifications published by the Enforcement Officer.

3.9.13 Fees – Each application for a sign permit or for approval of a Master or Common Signage Plan shall be accompanied by the applicable fees, which shall be established by the Governing body of the Town from time to time by resolution.

3.9.14 Completeness – Within 30 days of receiving an application for a sign permit or for a Common or Master Signage Plan, the Enforcement Officer shall review it for completeness. If the Enforcement Officer finds that it is complete, the application shall then be submitted to the Planning Commission for review. If the Enforcement Officer finds that it is incomplete, the Enforcement Officer shall, within such 30-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

3.9.15 Action – Within 30 days of the submission of a complete application for a sign permit, the Planning Commission shall either:

Authorize the issuance of a sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance and of the applicable Master or Common Signage Plan or,

Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this ordinance and of the applicable Master or Common Signage Plan. If the Planning Commission rejects the sign permit, the Owner/Developer has a right to appeal to the Board of Zoning Appeals.

3.9.16 Permits to Construct or Modify Signs – Signs identified as “P” on Table A shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Enforcement Officer. Such permits shall be issued only in accordance with the following requirements and procedures.

3.9.17 Permit for New Sign or for Sign Modification – An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan or Common Signage Plan then in effect for the lot. One application and permit may include multiple signs on the same lot.

3.9.18 Inspection – The enforcement Officer shall inspect the lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection,

the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and with the Southern Standard Building and electrical codes, the Enforcement Officer shall affix to the premises a permanent symbol identifying the sign (s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Enforcement Officer shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Enforcement Officer shall affix to the premises the permanent symbol described above.

3.9.19 Signs in the Public Right-of-Way – No signs, whether permanent or temporary, may be placed in the public right-of-way. Enforcement shall include the removal of any signs in the right-of-way, with no compensation granted to the offending party or parties.

3.9.20 Violations – Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this ordinance and/or by state law:

To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;

To install, create, erect, or maintain any sign requiring a permit without such a permit;

To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or,

Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty of this ordinance.

3.9.21 Fee Schedule – Sign permits fees will be assessed and collected for each Master or Common Signage Plan. Fees for all new or modified permitted signs shall be based on the ratio of one dollar (\$1) per square-foot of signage. Holiday oriented signs, public purpose signs without a commercial message and all signs excluded from this ordinance shall not be required to pay sign permit fees.

3.9.22 Political Signs – Political Signs as defined by this Ordinance shall be allowed with following provisions:

3.9.22.1 Size. The size of a Political Sign shall be governed by the size regulations found in “Table B” of this ordinance. No political sign may restrict, obstruct, impair, obscure, or interfere with traffic safety. Any sign determined to be in a location that causes an immediate hazard to the public safety may be immediately removed by the Town.

3.9.22.2 Number. There shall be no limit to the number of signs placed on a

private parcel.

3.9.22.3 Location. A political sign may be placed, erected or maintained on private property with the permission of the property owner and must comply with all state and federal election laws. Signs must be in compliance with all setbacks outlined in “Table B” of this Ordinance. Signs may not be placed in the public right-of-way.

3.9.22.4 Duration. No political sign may be erected or maintained more 90 days prior to the date of the election. All political signs are to be removed within 7 days after the election. In the event that the election is a primary or a run-off, the candidates for the later election may leave their signs in place to be removed 7 days after the general or run-off election.

3.9.22.5 Failure to Remove. Upon failure of to comply with the specified time requirements as set forth in this Ordinance, the Town of Atoka shall remove the sign 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. Any sign removed by the Town shall become the property of the Town and may be disposed of in any manner deemed appropriate by the Town.

3.10 Off Street Parking Requirements - There shall be provided, at the time of erection of any building, or at the time any principal building is enlarged or increased in capacity by or before conversion from one zone, use, or occupancy to another, permanent off-street parking as specified in this resolution. Parking space maintained in connection with an existing and continuing principal building on the effective date of this ordinance shall not be counted as serving a new building or addition; nor shall any parking space be substituted for loading space, nor any loading space substituted for a parking space.

3.10.1 Location –Off-street parking shall be located on the same lot that it serves. If the parking cannot be reasonably provided on the same lot, the Board of Zoning Appeals may permit parking space to be provided on other off-street property provided such space lies within three hundred (300) feet of the main entrance to such principal use.

3.10.2 Size and Maneuvering Room ^v– For all proposed parking layout designs depicting 90⁰angle parking, parking spaces shall have a width not be less than ten (10) feet and a length not less than twenty (20) feet. ^{vi} Except for dwellings with one or two dwelling units, all off-street parking facilities shall be so arranged that no automobile shall have to back into any street.

3.10.3 Access – Each parking space shall be directly accessible from a street or alley or from an adequate access aisle or driveway leading to or from a street or alley.

3.10.4 May Serve as Yard Space –Parking space may be included as part of the required yard space associated with the permitted use.

3.10.5 Number of Spaces for Specific Uses^{vii}

Use:	Parking Spaces Required
Dwelling Units	2 spaces per dwelling unit
Schools	1 space per 3.5 seats in assembly rooms plus 1/faculty member
Hotels / Motels	1 space per guest room plus 1 space employee
Restaurants	1 space per 150 gross square feet
Retail / Medical	1 space per 250 gross square feet
Retail over 25,000 sq. ft.	1 space per 300 gross square feet
Medical over 25,000 sq. ft.	1 space per 3 beds intended for patient use, exclusive of bassinets.
Office / Health Clubs / Other uses not specified	1 space per 300 gross square feet
Personal and Professional Services	1 space per 400 gross square feet plus 1 per service bay if applicable
Industrial / Manufacturing / Warehouse	1 space per employee per the largest shift

3.10.6 In all developments, handicapped parking spaces shall be provided which have a minimum width of twelve (12) feet. The number of handicapped parking spaces in relation to the total number of spaces is listed below:

<u>Total Spaces</u>	<u>Required Spaces</u>	<u>Total Spaces</u>	<u>Required Spaces</u>
Less than 26	1	151 to 200.....	6
26 to 50	2	201 to 300.....	7
51 to 75	3	301 to 400.....	8
76 to 100	4	401 to 500.....	9
101 to 150	5	More than 500	2% of total

3.10.7 Curbing and Surfacing^{viii} – A required parking area, which includes parking spaces, drives and maneuvering lanes shall be provided with a six (6) inch concrete curb or a six (6) inch rolled curb and paved prior to issuance of a certificate of occupancy. The requirement does not apply to single family or two family structures on a single lot.^{ix}

3.10.8 Parking Lot Markings^x– The parking area should be clearly marked showing parking spaces and directional flow in accordance with the Manual on Uniform Traffic Control Devices.

3.10.9 Parking Lot Drainage^{xi}– Parking area surfaces should have a minimum slope of two percent or ¼ inch per foot.

3.10.10 Parking Lot Landscaping^{xii}– Landscaped parking islands shall be provided at the end of all rows of parking. Parking islands shall be covered with 2-3"

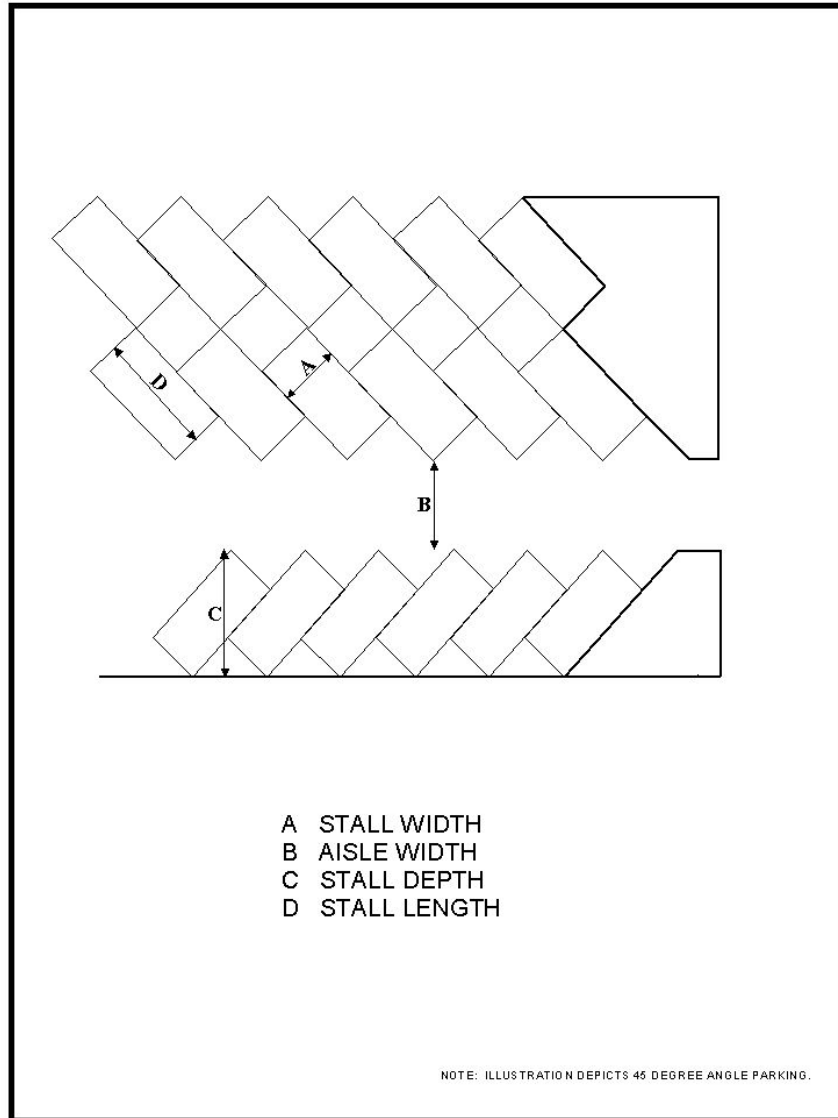
shredded bark or turf. Paving or covering islands with rock shall not be acceptable. Landscape parking islands shall have a minimum of 18" deep topsoil and built with a minimum interior width of 5 feet. One (1) canopy tree per eighteen (18) linear feet of island shall be required. Other landscape materials and understory trees may compliment the island plantings. Where utilities present a problem, understory trees may be substituted for the canopy trees.

3.10.11 Public Way / Parking Lot Screening^{xiii}– A three (3) foot high (914 mm) buffer at the public way shall be provided for all parking areas of five or more parking spaces.

3.10.12 Parking Lot Lighting^{xiv}– All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

3.10.13 Parking Layout Design^{xv}– Parking lot designs must adhere to the Layout Design Tables. The Commission may impose a layout design if safety or physical constraints are warranted.

Layout Design Elements						
		One Way Aisles Designs			Two Way Aisles Designs	
Dimension	Illustration Reference	45°	60°	75°	90°	0°
Stall width parallel to aisle	A	12.7'	10.4'	9.3'	10'	8'
Aisle width between stall lines	B	12'	16'	23'	26'	22'
Stall depth to wall	C	17.5'	19'	19.5'	18' or 20'	20'
Stall length of line	D	25'	22'	20'	18'	18'
Bumper Overhang (typical)	Not Shown	2'	2.3'	2.5'	2.5	N/A



3.11 Off-street Loading and Unloading Requirements - On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided, and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way.

3.11.1 All spaces shall be laid out in the dimension of at least ten feet by fifty feet (10' x 50') or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.

3.11.2 Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) feet by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.

3.11.3 The following ratio of spaces to floor area applies to all districts.

<u>Gross Floor Area</u>	<u>Space Required</u>
0 - 20,000 sq. ft.	One (1) space
Over 20,000 sq. ft.	One (1) space plus one (1) space for each additional 20,000 sq. ft

3.12 **Obstruction of Vision at Street Intersections Prohibited** - In all districts, except G-C (General Commercial) Districts, on a corner lot, within the area formed by the centerlines of streets or street and railroad at a distance of one hundred (100) feet from their intersections, there shall be no obstruction to vision between a height of two and one-half (2 ½) feet and a height of ten (10) feet above the average grade of each street or railroad at the centerline thereof. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. The Board of Zoning Appeals may reduce this requirement where safety conditions will not be impaired

3.13 **Access Control** - In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing contact, the following regulations shall apply:

3.13.1 **Plan Submission** - In order to obtain access to a street, a workable plan relative to openings for ingress and egress, maneuvering, parking, and loading spaces shall be submitted to the Building Inspector. Such a plan shall include a scale drawing with not less than one (1) inch equaling twenty (20) feet.

3.13.2 **Number Of Access Points** - Lots less than one hundred (100) feet in width shall have no more than one (1) point of access to any one (1) public street. There shall be no more than two (2) points of access to any one (1) public street on a lot of less than three hundred (300) feet in width. Lots in excess of three hundred (300) feet in width may have two (2) points of access to any one (1) public street for each three hundred (300) feet of frontage.

3.13.3 **Distance Of Intersections** - All vehicular access points shall be located at least thirty (30) feet from the intersection of any right-of-way lines of street or a street and a railroad.

3.13.4 **Width** - A point of access, i.e., a driveway or other opening for vehicles onto a public street, shall not exceed twenty-five (25) feet in width for one-way, one (1) lane ingress or egress and shall not exceed thirty-six (36)^{xvi} feet in width for two-way ingress and/or egress. The Building Inspector may issue permits for a point of access up to fifty (50) feet in width for businesses engaged primarily in the servicing of automobile vehicles.

3.13.5 **Effect On Curbs, Drainage Ditches, and Sidewalks** - No curbs shall be cut or altered or drainage ditches covered for the purpose of access without written approval by the Building Inspector. Where sidewalks exist, the area existing between the street and an interior parking space or driveway parallel to the street shall have an effective barrier to prevent harm to pedestrians or sidewalk by encroachment of vehicles onto the sidewalk area.

3.13.6 **Relation To State Highway Regulations** - Access control of property abutting state or federal highways shall be governed by official regulations of the

Tennessee Department of Transportation.

3.13.7 Variances - Causes requiring variance relative to this Section, and hardship not caused by the property owner, shall be heard and acted upon by the Board of Zoning Appeals.

3.14 Regulations Regarding the Placement of Manufactured Homes

3.14.1 The unit must be installed on a permanent foundation system in compliance with all applicable requirements of the Southern Standard Building Code.

3.14.2 The home must be covered with an exterior material customarily used on conventional dwellings. The exterior covering material shall extend to the ground except that, when a solid concrete or masonry perimeter foundation is used and the exterior covering material need not extend below the top of the foundation. Suitable exterior materials include, but shall not be limited to, clapboard, simulated clapboards, such as, conventional or metal material, but excluding smooth, ribbed or corrugated metal or plastic panels.

3.14.3 The hitches or towing apparatus, axles and wheels must be removed.

3.14.4 The roof must be pitched so there is at least a two-inch vertical rise for each twelve (12) inches of horizontal run. The roof must consist of material that is customarily used for conventional dwellings including, but not limited to, approved wood, asphalt composition shingles or fiberglass.

3.14.5 The unit must be oriented on the lot so that its long axis is parallel with the street.

3.14.6 All such units shall be required to connect to a public utility system which includes electric, water and sewer in compliance with the Southern Standard Building Code and National Electrical Code.

3.15 Site Plan Review Requirements - The following procedures and standards are established for those sections of this ordinance which require the submission and approval of a site plan prior the issuance of a building permit or certificate of occupancy for any affected lands, structures, or buildings. Site plans shall be reviewed and approved or disapproved under the following procedures and standards as specified by this ordinance.

3.15.1 Site Plan Submission and Review - Site plan review is required in three (3) separate instances by the Atoka Municipal Zoning Ordinance. These instances are:

3.15.1.1 The review and approval of a site plan by the Atoka Building Inspector for any addition under three-thousand (3,000) square feet or any single family or two (2) family residential structure. The building inspector reserves the right to refer any site plan to the appropriate body for additional review. This power of review may include, but not be limited to, setbacks, screening, lighting, parking location, layouts, access and general landscaping requirements. This power shall not include the authority to specify or alter the architectural style of proposed or existing

buildings.

3.15.1.2 The review and approval of a site plan for any Permitted Use by the Atoka Municipal / Regional Planning Commission as required by this ordinance. The Planning Commission may require such changes in the presented site plan as may be necessary to minimize the impact of the requested use upon the town. This power of review may include, but not be limited to, setbacks, screening, lighting, parking location, layouts, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings.

3.15.1.3 The review and approval of a site plan for any Use Permitted on Appeal by the Atoka Municipal Board of Zoning Appeals as required by this ordinance. The Board of Zoning Appeals may require such changes in the presented site plan as may be necessary to minimize the impact of the requested use upon the town. This power of review may include, but not be limited to, setbacks, screening, lighting, parking location, layouts, access and general landscaping requirements. This power shall not include the authority to specify or alter the architectural style of proposed or existing buildings.

3.15.2 Design Standards for Multi-Family, General Commercial, Neighborhood Commercial^{xvii} and Industrial Districts^{xviii, xix}

3.15.2.1 Purpose of standards - Such standards is needed to encourage and protect the investment of individual property owners when their property is redeveloped and improved. Accordingly, any new building or redevelopment of an existing property in the district shall be designed and constructed to be architecturally compatible in materials, scale and massing. Such standards are not intended to create a monolithic architectural appearance in these districts, but to encourage creative and attractive building elements and finishes.

3.15.2.2 Pattern book/Guidelines - In order to create a better understanding of design and site planning expectations for these districts, the Mayor and Board of Alderman may additionally adopt by resolution a set of design standards or pattern book that provides guidelines for new construction including architectural style, height, landscaping and open space as well as common elements for the district such as street lighting, sidewalks, street furniture, etc. Such guidelines shall be subject to review and recommendations by the planning commission prior to adoption. In addition, the City Administrator or his designee shall review the proposal with the affected property owners at a public meeting and the legislative body shall conduct a public hearing to receive formal comment prior to adoption of such guidelines.

3.15.2.3 Applicable standards - Within the above parameters, the following design standards shall apply in the development and redevelopment of

property in the R-3, GC, NC and M districts:

Height - All buildings that are attached or adjacent within a block should be similar in height to the greatest extent feasible. The planning commission may require the upper stories of a building that will be taller than the average building height on a block to be recessed further back from the front build-to line. The above height limitations and restrictions do not prohibit the use of an architectural feature such as a tower, cupola, etc., located above the roof line, provided the feature is in character with the architecture of the building and area; the total height of the building and feature does not exceed thirty-five (35) feet (plus mechanical/elevator penthouse); and the feature is not designed or used for placement of elevated wall signs.

Scale/massing - Individual buildings should use human-scaled / pedestrian oriented architectural features. Individual buildings should clearly articulate the first story and primary entrances, with display windows encouraged for retail stores. The ground floor should be clearly delineated from the upper stories and the upper floors from the top of the front façade roof line. Large blank walls in pedestrian areas greater than 35 feet in length and large monolithic box-like structures should be avoided. Larger buildings should be designed to divide the mass of the facility to create a visual impression of a series of smaller buildings or sections. Windows, doors, shutters, columns, masonry detailing, and variations in the front roof line, building wall recesses and variations in colors and materials should be used to break up the mass of a single building.

Exterior materials and details - High quality materials which are durable and attractive should be used on all buildings.

All publicly visible sides of the building should have a minimum of 75 percent of the exterior façades (excluding windows, trim and doors) covered in brick, cast stone, cultured stone, or an alternative masonry material acceptable to the planning commission. Split faced block may be used in the true service areas in combination with the above materials if it is integrally colored, not stained or painted. Concrete panels, prefabricated metal panels, fluted concrete cinder block, cementitious sheathing materials and similar imitation masonry materials, and stucco finishes should be avoided as the main exterior material.

In R-3 Districts, all multi-family buildings shall have a minimum of 50% of the exterior façades (excluding windows, trim and doors) covered in brick, cast stone, cultured stone, or an alternative masonry material acceptable to the planning commission.

In GC, NC and M Districts, all publicly visible sides of the building shall have a minimum of 75% of the exterior façades (excluding windows, trim and doors) covered in brick, cast stone, cultured stone, or an

alternative masonry material acceptable to the planning commission.

Window/door openings - Each floor facing a public street or park should have windows covering at least 15 percent of the wall area. Buildings should have clearly defined and highly visible customer entrances, which should be recessed or framed by a sheltering element such as an overhang, arcade, portico or other roof form. Individual framed windows should be provided instead of continuous horizontal "ribbon or band" type windows. Reflective glass, glass curtain walls and other continuous, floor-to-ceiling windows should also be avoided on all floors. Windows shall have a minimum sill height of 18 inches off of finished floor. The patterns of window openings and details of bays should be used to create a sense of scale and add visual interest to building facades. Wall openings should not span vertically more than one story.

Awnings - The design of awnings, including the selection of material and color, should complement the architectural style and character of the building. Large buildings with multiple storefronts should have compatible, though not necessarily identical, awnings. Signage may be allowed on awnings so long as it meets design and signage standards of Article 3 of this ordinance and is approved by the planning commission. Signage on awnings shall count toward the total number of signs as well as the maximum sign area allowed under Article 3 of this ordinance. Striping may be allowed on awnings, provided there are no more than two colors, which should be in keeping with the overall character of the district. Awnings may not be back lit. Awnings should be made of fabric and may project up to three feet into the public right-of-way with the bottom of the canopy at least nine feet above the sidewalk.

Roofs - To harmonize with residential structures, it is recommended that whenever possible, R-3, G-C, N-C and M Districts structures should have roofs that are visible from the street. Service station canopies (both attached and detached) should also have pitched roofs. Roofs should project enough beyond the façade to cast a shadow. Roofs should be dark earth tone in color.

Mechanical equipment should be concealed within the volume of the roof or enclosed within penthouse structures. In extreme cases where this is not possible, the projecting mechanical elements should be located so that they are not visible from public streets.

Lighting – Height and Light Levels

Pole and building mounted light fixtures shall meet the following height restrictions for maximum mounting height:

 Within 50 feet of a residential property or residential district – 14 feet

50 –170 feet from residential property – 20 feet

170 feet or more from residential property – 25 feet

Light fixtures shall in no case be higher than 25 feet or shall not be higher than the majority of the building structure

Perimeter Lighting Requirements:

Lighting levels shall be based on maintained lamp lumens. Maintenance values shall be identified on the lighting calculations submitted for approval.

For lighting levels adjacent to commercial property, the lighting shall not exceed one (1) foot-candle of illumination at the property line, and shall not exceed one-half (1/2) foot-candles 10 feet beyond the property line.

For lighting levels adjacent to residential property, the lighting shall not exceed one-quarter (0.25) foot-candle of illumination at the property line and shall not exceed one-tenth (0.1) foot-candle 10 feet beyond the property line.

Lighting Plan Requirements

A Site Lighting Plan that is prepared by a licensed lighting design professional shall be submitted for all buildings 5,000 square feet or larger. The site lighting plan shall include at least the following:

A site plan drawn to scale showing building(s), landscaping, parking areas, property line and proposed exterior lighting fixtures.

Mounting heights for all proposed lighting fixtures shall be indicated.

Specifications of the illuminating devices, lamps supports and other devices, including designation as IESNA (Illuminating Engineering Society of North America) “cut-off” fixtures. This description may include but is not limited to manufacturer’s cut-sheets.

Site lighting plan shall include point by point lighting calculations of the entire site extending a minimum of 10 feet beyond the property line. Calculation point spacing shall not exceed a grid of more than 25 feet by 25 feet. Points falling within buildings shall be removed from calculations. Site shall be divided into multiple calculation zones. One zone shall be provided for the general parking area and driveways. A separate zone shall be provided for open space and perimeter area levels. Additional zones shall be provided for canopies, sidewalks, drive up windows and other areas where higher than standard DRC

lighting levels are desired. Each lighting zone shall include minimum, maximum and average foot-candle lighting levels.

Any existing and proposed lighting of adjacent properties as well as lighting of public right-of-ways (street lighting) in calculations.

Lighting source shall have a color temperature between 3,000K and 4,000K with a color rendering index of at least 65.

Maximum lamp wattage shall not exceed the following wattage restrictions:

Light fixtures mounted up to 14 feet in height: 175 watts

Light fixtures mounted above 14 feet and up to 20 feet: 250 watts

Light fixtures mounted above 20 feet and up to 25 feet: 400 watts

Maximum total wattage of light fixtures per pole: 1000 watts

Other Lighting Provisions

Lighting for all recreational facilities shall be reviewed on a case-by-case basis. New sports lighting systems shall be furnished with glare control. Lighting fixtures shall be mounted and aimed so that the illumination falls within the primary playing field and immediate surroundings so that no direct light illumination is directed off site.

The maximum average luminance for a canopy or apron at a gas station, convenience store, bank, fast food restaurant or similar establishment shall not exceed 20 foot-candles, provided that the canopy or pump islands meet the setback requirements of the Zoning Ordinance. All lighting at canopies shall utilize fully shielded lighting fixtures with bottom of lens flush with canopy.

Prohibitions

Recreational Facilities: No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11:00 PM except to conclude any recreational or sporting event or other activity conducted at the facility in progress prior to 11:00 PM.

Mercury Vapor: The installation of mercury vapor fixtures is prohibited.

Exemptions

The DRC may grant an exemption to the requirements of these standards only upon a written finding that there are conditions warranting the exemption.

Nonconforming Fixtures. Outdoor lighting fixtures installed prior to the effective date of this Standard are exempt from the provisions of these standards, provided, however, that no change in use in lighting, replacement, and structural alteration of outdoor lighting fixtures shall be made unless it thereafter conforms to the provisions of this Standard.

Temporary fair, carnival or civic uses

Landscaping - The landscape of the City mirrors the predominant landscape of the surrounding region, with informal groupings of plants amidst green lawns. Landscape design should compliment this image.

Materials

Wherever possible, healthy existing trees should be retained, as they are an amenity requiring many years to replace. Grading and construction should avoid disturbance of such trees.

To provide a consistent effect in residential areas, the preferred street trees are 2 inch - 2 ½ inch caliper oak, planted on average 50 foot on center.

To provide a more immediate effect in commercial areas and offset the larger scale structures, the preferred street trees are 3 inch - 3 ½ inch caliper oak, planted no further apart than 50 feet on center.

Evergreen species are desirable for screening views, such as views into parking or service areas.

As an extension of the surrounding natural landscape, plant species should be native or well adapted to the region.

Recommended shade tree species include: Willow Oak, Pin Oak, Scarlet Oak, Bald Cypress, Tulip Tree, Honey Locust and Red Maple.

Recommended shrub species at 24 inches-36 inches height include: Wax Leaf Ligustrum, Pfitzer Juniper, Mugho Pine, Dwarf Japanese Holy, Dwarf Chinese Holly, Variegated Privet, Manhattan Euonymous and Florida Jasmine.

Recommended screening plants include: Magnolia - Brackens Brown and Little Gem, Savannah Holly and Foster Holly.

Recommended screening shrub species include: Wax Leaf Ligustrum, Pfitzer Juniper, Mugho Pine, Dwarf Japanese Holy,

Dwarf Chinese Holly, Variegated Privet, Manhattan Euonymous and Florida Jasmine

On site areas adjacent to streets, lawn areas must be established or be sodded prior to occupancy of the project.

Maintenance and Irrigation

All planting must be maintained by the respective property owners.

Planting plans approved by the Commission must be maintained as originally designed. Any diseased, dying or dead plants should be treated or removed by the property owner. Appropriate, durable plants should be installed.

Irrigation systems must be provided to ensure robust planting areas (including within parking islands and medians, if applicable).

To prevent accidents, irrigation systems must be installed below ground, with spray heads flush with the ground surface.

Irrigation systems must have a reduced pressure backflow prevention (R.P.B.P.) device approved by the water operator in charge.

3.15.2.4 Appeals

All appeals shall be made to the Board of Mayor and Aldermen.

3.15.3 Review Procedure - In instances of review of a site plan by the Atoka Municipal/Regional Planning Commission, the Atoka Municipal Board of Zoning Appeals or the Atoka Building Inspector, the following procedures shall apply.

3.15.3.1 Building Inspector Review

In instances of review by the Atoka Building Inspector, the site plan shall be reviewed in light of the provisions of this ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. In instances of disapproval, the applicant shall be notified in writing as to the reason(s) the site plan was disapproved.

3.15.3.2 Design Review Commission

The owner or developer shall submit eight (8) copies of the proposed site plan to the Building Inspector fifteen (15) days prior to the regular meeting date of the Planning Commission. The site plan shall be reviewed in light of the provisions of this ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. When approval has been granted, the site plan shall be signed and dated by the Secretary of the Planning Commission. In instances of disapproval, the applicant shall be notified in writing as to the reasons(s) the site plan was disapproved.

Prior to the regular Planning Commission meeting, copies of the proposed site plan shall be distributed to the staff planner, staff engineer and other affected departments for review of areas under their concern. Once the town staff has reviewed the proposed development and has submitted a written review, a copy of these reviews shall be distributed to members of the Planning Commission and to the applicant prior to the scheduled meeting. To assist in resolving any potential problems, the owner, developer, or agent shall be required to attend the meeting at which the item is to be heard.

3.15.3.3 Mayor and Board of Alderman - Appeal Review

The owner or developer shall submit five (5) copies of the proposed site plan to the Building Inspector fifteen (15) days prior to the regular meeting date of the Mayor and Board of Alderman. The site plan shall be reviewed in light of the provisions of this ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. When approval has been granted, the site plan shall be signed and dated by the Town Mayor. In instances of disapproval, the applicant shall be notified in writing as to the reason(s) the site plan was disapproved.

Prior to the scheduled meeting, copies of the proposed site plan shall be distributed to the staff planner, staff engineer and other affected departments for review of areas under their concern. Once the town staff has reviewed the proposed development and has submitted a written review, a copy of these reviews shall be distributed to members of the Mayor and Board of Alderman and to the applicant prior to the scheduled meeting. To assist in resolving any potential problems, the owner, developer, or agent shall be required to attend the meeting at which the item is to be heard.

3.15.3.4 Contents of the Site Plan - In instances where site plan review is required by either the Building Inspector, the Design Review Commission (Planning Commission) or the Mayor and Board of Alderman, the site plan shall be drawn to a scale of not less than 1" = 50' and shall include, at a minimum, the following:

Name and address of development

Name and address of the applicant and owner of record

Present zoning of the site and abutting properties

Date, graphic scale, and north point with reference to source of meridian

Courses and distances of center of all streets and all property lines, setback lines, property restricting lines, easements, covenants, reservations and rights-of-way

The total land area

A vicinity map showing the location of the property in relation to the Town of Atoka

Topography of the existing ground and paved areas and elevations in relation to mean sea level of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures. Topography to be shown by dashed line illustrating two (2) foot contours and by spot elevation where necessary to indicate flat areas

Certification as to the following: Certificate of accuracy of the plan by a licensed architect or engineer; and, certificate of approval by the Atoka Municipal / Regional Planning Commission or the Atoka Municipal Board of Zoning Appeals, which ever is applicable to the type of use that is requested. (See Appendix A3 for examples of certificates.)

The location, dimensions, site and height of the following when existing:

- Sidewalks, streets, alleys, easements and utilities;
- Buildings and structures;
- Public waste water systems;
- Slopes, terraces and retaining walls;
- Driveways, entrances, exits, parking areas and sidewalks;
- Water mains and fire hydrants;
- Trees and shrubs;
- Recreational areas and swimming pools;
- Natural and artificial water courses;
- Limits of flood plains;
- Building Elevations detailing exterior surface materials

The location, dimensions, site and height of the following when proposed:

- Sidewalks, streets, alleys, easements and utilities;
- Buildings and structures including the front (street) elevation of proposed buildings;
- Public waste water systems;
- Slopes and terraces, and retaining walls;
- Driveways, entrances, exits, parking areas and sidewalks;
- Water mains and fire hydrants;
- Trees and shrubs;
- Recreational areas; and,

Distances between buildings

Estimates of the following when applicable:

Number of dwelling units;

Number of parking spaces;

Number of loading spaces; and,

Number of commercial or industrial tenants and employees

Plans for collecting storm water and methods of treatment of natural and artificial watercourses including a delineation of limits or flood plains

Proposed grading, surface drainage terraces, retaining wall heights, grades on paving area, and ground floor elevations of proposed building and structures

Proposed topography of the site shall be shown by two (2) foot contours

In instances where the proposed construction is an individual single-family or two (2) family residences, the site plan shall consist of the following:

All property lines and their surveyed distances and courses

All building restricting lines, setback lines, easements, covenants, reservations and rights-of-way

Total land area. Present zoning of site and abutting properties

Name, address of owner of record and applicant

Provisions for utilities (water, sewer, etc.)

Location and dimensions of the proposed structures

3.15.3.5 Expiration of Approval and Renewal - A site plan approved by the Planning Commission or the Board of Mayor and Alderman shall lapse unless a building permit, based thereon, is issued within three (3) years from the date of such approval unless an extension of time is applied for and granted by the appropriate approving body.

3.15.3.6 Screening^{xx} - Screening existing lots of record adjoining a conflicting land use shall not be required.

In general, all new development shall establish a 20 foot buffer consisting of a planted and/or fenced screen erected between parcels of land with different land uses such as multi-family, commercial and industrial next to low and medium density residential. Landscape screening shall consist of a minimum of 6 foot height evergreen shrubs or trees planted a maximum of 8 feet on center.

Fenced screening shall be a minimum of 8 feet in height. The type and material of the fence will be reviewed on a case-by-case basis.

Additional screening may be requested at the discretion of the Planning Commission or request of planning staff.

Trees and Shrubs

Recommended shade trees species include: Magnolia - Brackens Brown and Little Gem, Savannah Holly and Foster Holly

Recommended shrub species include: Wax Leaf Ligustrum, Pfitzer Juniper, Mugho Pine, Dwarf Japanese Holy, Dwarf Chinese Holly, Variegated Privet, Manhattan Euonymous and Florida Jasmine.

Maintenance and Irrigation

All planting must be maintained by the respective property owners.

Planting plans approved by the Commission must be maintained as originally designed. Any diseased, dying or dead plants should be treated or removed by the property owner. Appropriate, durable plants should be installed.

Irrigation systems must be provided to ensure robust planting areas (including within parking islands and medians, if applicable).

To prevent accidents, irrigation systems must be installed below ground, with spray heads flush with the ground surface.

Irrigation systems must have a reduced pressure backflow prevention (R.P.B.P.) device approved by the water operator in charge.

3.15.4 Family Day Care Homes, Day Care Centers and Group Day Care Homes -
The following provisions shall apply to all Family Day Care Homes, Day Care Centers and Group Day Care Homes in the Town of Atoka.

3.15.4.1 Family Day Care Home –Prior to the approval of a Family Day Care Home, in the Town of Atoka, the day care shall adhere to the following provisions with the approving authority specifically addressing setback and buffering of the play area and can require additional setback or buffering, in specific cases, to protect adjacent Residential uses.

Each Family Day Care Home shall have a fenced play area of at least 1,400 square feet.

Each family day care home shall be oriented towards the care of 5 to 7 children and shall not exceed 12 children.

All outdoor play activities shall be conducted within the fenced play area.

Each Family Day Care Home shall be conducted in a single-family residence only, not to include mobile homes. An accessory structure shall not be used in the operation of a family day care.

The family day care facility shall meet the requirements of the Tennessee

Department of Human Services relative to maintenance and operation.

All persons engaged in the Family Day Care Home shall be residents of the home, except that one non-resident may be employed or utilized on a temporary basis only during periods of illness or other emergencies.

No more than 15% of the ground floor area shall be used as part of the family day care operation.

There shall be no signs advertising the property as a day care facility.

Prior to the approval of a Family Day Care Home, a site plan drawn to a scale of a minimum of 1"=25' shall be submitted depicting the following:

The lot upon which the family daycare is proposed;

A footprint, with total square footage, of the structure in which the family daycare will be located;

The access or driveway to the structure;

The fenced in play area;

Setback from adjoining property owners; and,

Buffering from adjoining residential uses

3.15.4.2 Day Care Centers and Group Day Care Homes –Prior to the approval of a Day Care Center or a Group Day Care Home in the Town of Atoka, the operation shall adhere to the following provisions, with the approving authority specifically addressing setback and buffering of the play area and can require additional setback or buffering in specific cases, to protect adjacent residential uses.

Each Day Care Center or Group Day Care Home shall adhere to the following minimum requirements for a fenced in play area.

Day Care Center: 4,000 sq. ft. plus 200 sq. ft. for each child over 20.

Group Day Care: 2,400 sq. ft.

Each Day Care Center or Group Day Care Home shall have a minimum lot size of 30,000 square feet.

The Day Care Center or Group Day Care Home facility shall meet the requirements of the Tennessee Department of Human Services relative to maintenance and operation.

Each family day care home shall be oriented towards the care of 5 to 7 children and shall not exceed 12 children.

All outdoor play activities for a Day Care Center and a Group Day Care home shall be conducted within the fenced play area.

If a lower level of a Day Care Center or Group Day Care Home

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operation is proposed to be expanded to a higher level of day care operation, the new day care operation shall need new approval of the expansion with a site plan being required to the approving authority.

Prior to the approval of a Day Care Center or a Group Day Care Home, a site plan shall be submitted in accordance with 3.15 Section C. In addition, the site plan shall show the fenced in play area and buffering from adjoining residential uses.

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TITLE 14-201 ARTICLE 4-ESTABLISHMENT OF DISTRICTS

4.1 Classification of Districts - In order to regulate and restrict the location and use of buildings and land for commerce, residence and other purposes and to regulate and restrict the height and size of yards and open spaces and the density of habitation, the Town of Atoka is hereby divided into districts as set forth below:

FAR	(Forestry, Agricultural, Residential)
R-1	(Low Density Residential)
R-2	(Medium Density Residential)
R-3	(High Density Residential)
G-C	(General Commercial)
N-C	(Neighborhood Commercial)
M	(Industrial)
FH	(Flood Hazard District)

4.2 Boundaries of Districts - The boundaries of districts are hereby established as shown on the map entitled, "Zoning Map of Atoka, Tennessee," which is a part of this ordinance and which is on file in the Town Hall of the Town of Atoka.

Unless otherwise indicated on the zoning map, the boundaries are lot lines, the center lines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of enactment of this ordinance. The Board of Zoning Appeals shall determine questions concerning the exact location of district boundary lines.

Where a district boundary divides a lot, as existing at the time this ordinance takes effect, and the major portion of said lot is in the less restrictive district, the regulations relative to that district may extend as well to such portion of said lot which is not more than twenty (20) feet within the more restricted district.

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TITLE 14-201 ARTICLE 5 - PROVISIONS GOVERNING FAR (FORESTRY, AGRICULTURE AND RESIDENTIAL) DISTRICTS

Within the areas designated **FAR (Forestry-Agricultural-Residential)** on the Municipal Zoning Map of the Town of Atoka, Tennessee, the following provisions shall apply.

5.1 Intent - The intent of the FAR (Forestry-Agricultural-Residential) District is to provide an area to be used primarily for agricultural, forestry and very low density residential development.

5.2 Uses Permitted

Single-family detached dwellings, not to include mobile homes

Small roadside stands for sale of farm produce raised on the same property

Forestry and agricultural uses

Accessory buildings customarily incidental to the permitted uses

Real estate signs advertising the sale, rental or lease of only the premises on which they are maintained, provided they are not over four (4) square feet in area, and at least six (6) feet from all lines and the street right-of-way.

5.3 Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

Public uses, including but not limited to, municipal, state or federal uses such as schools, museums, office buildings, and utilities

Churches and cemeteries

Private or parochial schools

Philanthropic or religious institutions other than churches

Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without 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 preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that:

The proposed use shall be located and conducted only in the principal building;

The persons engaged in any such use shall be residents of the dwelling unit in which the proposed use is located;

Not more than twenty (20) percent of the total ground floor area in the dwelling unit shall be devoted to such proposed use;

The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way; and,

The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

Mining and quarrying of non-metallic minerals (except fuels) as defined in the Standard Land Use Coding Manual; provided that no mining takes place until written approval has been granted by the Board of Zoning Appeals. The grant of approval shall expire 2 years from the date of approval and the operator shall be required to reapply to the Board of Zoning Appeals for continuation of the use. Before approval by the Board of Zoning Appeals the applicant shall be required to adhere to the following requirements:

Shall not be located or take place closer than one-hundred and sixty (160) feet to a residential structure or fifty (50) feet from a property line, which ever is greater.

Shall not be located or take place closer than two-hundred (250) feet of a designated Flood Hazard Area.

Shall be required to take such measures, as the Town of Atoka deems necessary and proper to adequately maintain the county roads proposed for use by the applicant. A bond in an amount adequate to correct damages occurring as a result of the use of these roads by the applicant can be required by the Board of Zoning Appeals.

Shall be required to submit a signed and certified notice of intent permit to comply with all state regulations governing the discharge of storm water associated with the proposed activity. The notice of intent will have been filed with the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

Shall provide a copy a copy of the National Pollutant Discharge Elimination System Permit that is issued by the Tennessee Department of Environment and Conservation, Mining Section.

Shall provide the Board of Zoning Appeals with a surety instrument (i.e. letter of credit, bond) in the amount of one-thousand (\$1000.00) dollars for each acre affected by the respective operation. The bond shall be for three (3) years and shall be redeemable by the Board of Zoning Appeals if reclamation of the area, in accordance with the approved Reclamation and Re-vegetation Plan, has not been satisfied within those 3 years or an extension has not been granted by the Board of Zoning Appeals.

Shall provide and have approved by the Town Engineer a Soil Erosion Control Plan, a Reclamation Plan and a Re-vegetation Plan. All plans shall comply with the adopted standards of the Department of Health, Environment and Conservation; and,

Shall present a detailed site plan drawn to a scale of one inch equals two-hundred feet (1"=200'), which includes all relevant information in 14-201.3.15, Procedures and Requirements for Site Plan Approval, and shall include the following additional information;

The name of the owner of the mineral rights;

The name of the owner of the surface rights;

The name of the operator of the proposed activity;

The total number of acres to be disturbed;

A certification as to the accuracy of the plan by the person responsible for its preparation;

The boundaries for which the permit is requested and the boundaries of the parcel on which the requested area is located;

The location of all existing or proposed haul or access roads to be used by the mining operator;

The location of any existing structures, publicly owned lands, or utility facilities within one-thousand (1,000) feet of the affected area; and,

The location of all streams and standing bodies of waters in or within one-thousand (1,000) feet of the proposed area.

5.4 Criteria for BZA Review - Prior to the approval of any use on appeal, the Board of Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

5.5 Uses Prohibited - Any other use not specifically permitted or permitted on appeal by the Board of Zoning Appeals in this section.

5.6 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements:

Minimum Lot Area	
Single-family dwellings	One (1) acre
Churches and / or cemeteries	Two (2) acres
Schools, including parochial or private schools	Five (5) acres plus one (1) acre for each one hundred (100) or fraction of one hundred (100) students over one hundred (100).
All other uses	One (1) acre or more as required by the BZA

Minimum Lot Width at the Building Line	
Single-family dwellings	One-hundred (100) feet
Churches and/or cemeteries	Two-hundred (200) feet
Schools, including parochial or private schools	Three-hundred (300) feet
All other uses	One-hundred (100) feet
Minimum Required Front Yard	
Lots fronting on arterial streets	Fifty (50) feet
All other lots	Thirty-five (35) feet
Minimum Required Side Yard on Each Side of the Lot	
Single-family dwellings	Fifteen (15) feet
All other uses	Twenty (25) feet or more as required by the BZA
Minimum Required Rear Yard	
Single-family dwellings	Thirty (30) feet
All other uses	Forty (40) feet or more as required by the BZA

5.7 Maximum Number of Principal Buildings Permitted - Single family residential uses shall be limited to one (1) principal building per lot.

Uses other than residential shall have no limitations on the number of buildings provided however, that the aggregate of all buildings shall not cover more than thirty-five (35) percent of the entire lot area.

5.8 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

5.9 Parking Requirements - Off-street parking space shall be provided on the same lot as the principal building in accordance with 14-201.3.10 of this ordinance.

5.10 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and further that no accessory building shall be erected or extended into any required front yard.

Accessory buildings and uses shall include private garages, carports, swimming pools, and other accessory uses customarily incidental to the previously permitted uses.

No accessory building or use shall be erected in any required front yard.

Accessory buildings or uses shall not cover more than thirty (30) percent of any required rear or side yard and shall be at least five (5) feet from all lot lines, recorded easements or other buildings on the same lot.

Accessory buildings and uses on corner lots shall conform to front yard setbacks for both intersecting streets.

No accessory building or use shall exceed two (2) stories or twenty-five (25) feet in height.

5.11 Site Plan Review - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

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TITLE 14-201 ARTICLE 6-PROVISIONS GOVERNING R-1 (LOW DENSITY RESIDENTIAL) DISTRICTS

Within the areas designated **R-1 (Low Density Residential) District** on the Municipal Zoning Map of the Town of Atoka, Tennessee and the following provisions shall apply:

6.1 Intent - The intent of the R-1 (Low Density) Residential District is to provide a single-family residential area free from conflicting residential uses. These areas should be served by all municipal services.

6.2 Uses Permitted

Single-family detached dwellings, not to include mobile homes

Accessory buildings customarily incidental to the permitted use

Real estate signs advertising the sale, rental or lease of only the premises on which they are maintained, provided they are not over four (4) square feet in area, and at least six (6) feet from all lines and the street right-of-way.

6.3 Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.

Churches

Private or parochial schools

Philanthropic or religious institutions other than churches

Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without 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 preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that: ^{xxi}

The proposed use shall be located and conducted in the principal building only;

The persons engaged in any such use shall be residents of the dwelling unit in which the proposed use is located;

Not more than twenty (20) percent of the total ground floor area in the dwelling unit shall be devoted to such proposed use;

The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way; and,

The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

6.4 Criteria for Review - Prior to the approval of any use on appeal, the Board of Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in require site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

6.5 Uses Prohibited - Any other use not specifically permitted or permitted on appeal by the Board of Zoning Appeals in this section.

6.6 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed and located shall comply with the following minimum requirements.

Minimum Lot Area	
Single-family dwellings	Ten thousand (10,000) ^{xxii} sq. ft. A minimum of one acre will be required where Atoka Municipal Sewer System is not available.
Churches and / or cemeteries	Two (2) acres
Schools, including parochial or private schools	Five (5) acres plus one (1) acre for each one hundred (100) or fraction of one hundred (100) students over one hundred (100).
All other uses	One (1) acre or more as required by the BZA
Minimum Lot Width at the Building Line	
Single-family dwellings	One-hundred (100) feet ^{xxiii}
Churches and/or cemeteries	Two-hundred (200) feet
Schools, including parochial or private schools	Three-hundred (300) feet
All other uses	One-hundred (100) feet

Minimum Required Front Yard	
Lots fronting on arterial streets	Fifty (50) feet
All other lots	Thirty (30) feet

Minimum Required Side Yard on Each Side of the Lot	
Single-family dwellings	Fifteen (15) feet
All other uses	Twenty five (25) feet or more as required by the BZA

Minimum Required Rear Yard	
Single-family dwellings	Twenty (20) feet
All other uses	Forty (40) feet or more as required by the BZA

6.7 Maximum Number of Principal Buildings Permitted

Single family residential uses shall be limited to one (1) principal building per lot.

Uses other than residential shall have no limitations on the number of buildings provided however, that the aggregate of all buildings shall not cover more than thirty-five (35) percent of the entire lot area.

6.8 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

6.9 Parking Requirements - Off-street parking space shall be provided on the same lot as the principal building in accordance with 14-201.3.10

6.10 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and further that no accessory building shall be erected or extended into any required front yard.

Accessory buildings and uses shall include private garages, carports, swimming pools, and other accessory uses customarily incidental to the previously permitted uses.

No accessory building or use shall be erected in any required front yard.

Accessory buildings or uses shall not cover more than thirty (30) percent of any required rear or side yard and shall be at least five (5) feet from all lot lines, recorded easements or other buildings on the same lot.

Accessory buildings and uses on corner lots shall conform to front yard setbacks for both intersecting streets.

No accessory building or use shall exceed two (2) stories or twenty-five (25) feet in height.

- 6.11 Site Plan Review** - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files.

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TITLE 14-201 ARTICLE 7 - PROVISIONS GOVERNING R-2 (MEDIUM DENSITY RESIDENTIAL) DISTRICTS

Within the areas designated **R-2 (Medium Density) Residential District** on the Municipal Zoning Map of the Town of Atoka, Tennessee and the following provisions shall apply.

7.1 Intent - The intent of the R-2 (Medium Density) Residential District is to allow a combination of single-family and two family residences in a harmonious setting. These areas should be served by all municipal services.

7.2 Uses Permitted

Single-family detached dwellings, not to include mobile homes

Two-family dwellings, not to include mobile homes

Accessory buildings and accessory uses customarily incidental to the above permitted uses.

7.3 Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, and utilities.

Churches and cemeteries

Private or parochial schools

Philanthropic or religious institutions other than churches

Golf courses or country clubs

Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without 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 preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that:

The proposed use shall be located and conducted in the principal building only;

The persons engaged in any such use shall be residents of the dwelling unit in which the proposed use is located;

Not more than twenty (20) percent of the total ground floor area in the dwelling unit shall be devoted to such proposed use;

The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way; and,

The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

7.4 Criteria for BZA Review - Prior to the approval of any use on appeal, the Board of Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

7.5 Uses Prohibited - Any other use not specifically permitted or permitted as a use on appeal by the Board of Zoning Appeals in this section.

7.6 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements.

Minimum Lot Area	
Single-family dwellings	Eight thousand (8,000) sq. ft.
Two family dwellings	Thirteen thousand (13,000) sq. ft.
Churches and / or cemeteries	Two (2) acres
Schools, including parochial or private schools	Five (5) acres plus one (1) acre for each one hundred (100) students
Golf courses or country clubs	Ten (10) acres
All other uses	One (1) acre or more as required by the BZA
Minimum Lot Width at the Building Line	
Single-family dwellings	Seventy-five (75) feet ^{xxiv}
Two family dwellings	Eighty (80) feet
Churches and/or cemeteries	Two-hundred (200) feet
Schools, including parochial or private schools	Three-hundred (300) feet
All other uses	One-hundred (100) feet

Minimum Required Front Yard	
Lots fronting on arterial streets	Fifty (50) feet
Residential lots	Twenty-five (25) feet
All other lots	Thirty (30) feet
Minimum Required Side Yard on Each Side of the Lot	
Single-family dwellings	Ten (10) feet.
Two family dwellings	Ten (10) feet.
All other uses	Twenty (20) feet or more as required by the BZA
Minimum Required Rear Yard	
Single-family dwellings	Twenty (20) feet
Two family dwellings	Twenty (20) feet.
All other uses	Thirty (30) feet or more as required by the BZA

7.7 Maximum Number of Principal Buildings Permitted

Single-family and two-family residential uses shall be limited to one (1) principal building per lot.

Uses other than residential shall have no limitations on the number of buildings provided however, that the aggregate of all buildings shall not cover more than thirty-five (35) percent of the entire lot area.

7.8 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

7.9 Parking Requirements - Off-street parking space shall be provided on the same lot as the principal building in accordance with the 14-201.3.10.

7.10 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and the following provisions.

Accessory buildings and uses shall include private garages, carports, swimming pools, and other accessory uses customarily incidental to the previously permitted uses.

No accessory building or use shall be erected in any required front yard.

Accessory buildings or uses shall not cover more than thirty (30) percent of any required rear or side yard and shall be at least five (5) feet from all lot lines, recorded easements or other buildings on the same lot.

Accessory buildings and uses on corner lots shall conform to front yard setbacks for both intersecting streets.

No accessory building or use shall exceed two (2) stories or twenty-five (25) feet in height.

- 7.11 Site Plan Review** - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

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TITLE 14-201 ARTICLE 8 - PROVISIONS GOVERNING R-3 (HIGH DENSITY RESIDENTIAL) DISTRICTS

Within the areas designated **R-3 (High Density) Residential District** on the Municipal Zoning Map of the Town of Atoka, Tennessee and the following provisions shall apply.

8.1 Intent - The intent of the R-3 (High Density) Residential District is to allow a combination of single-family and higher density developments in a harmonious setting. These areas should be served by all municipal services.

8.2 Uses Permitted

Single-family detached dwellings, not to include mobile homes

Accessory buildings and accessory uses customarily incidental to the above permitted uses.

8.3 Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings and utilities.

Churches and cemeteries

Private or parochial schools

Philanthropic or religious institutions other than churches

Golf courses or country clubs

Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without 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 preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that:

The proposed use shall be located and conducted in the principal building only;

The persons engaged in any such use shall be residents of the dwelling unit in which the proposed use is located;

Not more than twenty (20) percent of the total ground floor area in the dwelling unit shall be devoted to such proposed use;

The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way; and,

The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

8.4 Criteria for BZA Review - Prior to the approval of any use on appeal, the Board of

Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

8.5 Uses Prohibited Any other use not specifically permitted or permitted as a use on appeal by the Board of Zoning Appeals in this section.

8.6 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements.

Minimum Lot Area	
Single-family dwellings	Eight thousand (8,000) sq. ft.
Multi-family dwellings	Thirteen thousand (13,000) sq. ft. for the first unit plus three-thousand sq. ft. for each additional unit
Churches and / or cemeteries	Two (2) acres
Schools, including parochial or private schools	Five (5) acres plus one (1) acre for each one hundred (100) students
Golf courses or country clubs, including publicly owned	Ten (10) acres
All other uses	One (1) acre or more as required by the BZA

Minimum Lot Width at the Building Line	
Single-family dwellings	Seventy-five (75) feet
Multi-family dwellings	One-hundred (100) feet
Churches and/or cemeteries	Two-hundred (200) feet
Schools, including parochial or	Three-hundred (300) feet

private schools	
All other uses	One-hundred (100) feet
Minimum Required Front Yard	
Lots fronting on arterial streets	Fifty (50) feet
Residential lots	Twenty-five (25) feet
All other lots	Thirty (30) feet
Minimum Required Side Yard on Each Side of the Lot	
Single-family dwellings	Ten (10) feet
Multi-family dwellings	Fifteen (15) feet
All other uses	Twenty (20) feet or more as required by the BZA
Minimum Required Rear Yard	
Single-family dwellings	Twenty (20) feet
All other uses	Thirty (30) feet or more as required by the BZA

8.7 Maximum Number of Principal Buildings Permitted

Single-family residential uses shall be limited to one (1) principal building per lot.

Multi-family residential uses shall have no limitations on the number of principal buildings per lot provided that the lot area and yard requirements are met and provided that the site plan for the complex is approved by the Planning Commission.

Uses other than residential shall have no limitations on the number of buildings provided however, that the aggregate of all buildings shall not cover more than thirty-five (35) percent of the entire lot area.

8.8 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

8.9 Parking Requirements - Off-street parking space shall be provided on the same lot as the principal building in accordance with the 14-201.3.10

8.10 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and the following provisions.

Accessory buildings and uses shall include private garages, carports, swimming pools, and other accessory uses customarily incidental to the previously permitted uses.

No accessory building or use shall be erected in any required front yard.

Accessory buildings or uses shall not cover more than thirty (30) percent of any required

rear or side yard and shall be at least five (5) feet from all lot lines, recorded easements or other buildings on the same lot.

Accessory buildings and uses on corner lots shall conform to front yard setbacks for both intersecting streets.

No accessory building or use shall exceed two (2) stories or twenty-five (25) feet in height.

8.11 Recreational Facilities - For all multifamily or apartment developments, exceeding four units and including phased developments, recreational space and facilities shall be provided. The recreational space shall constitute ten percent of the required minimum lot area as set forth in 14-201.8.5 and shall be landscaped, lighted, and furnished appropriate to the anticipated clientele, i.e., including playground equipment when children are anticipated. The planning commission shall have the authority to modify this proposed recreational space and facilities so as to reasonably serve the anticipated residents.

8.12 Site Plan Review - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

TITLE 14-201 ARTICLE 9 - PROVISIONS GOVERNING R-4 (HIGH DENSITY RESIDENTIAL-TOWNHOUSE) DISTRICTS

Within the areas designated **R-4 (High Density Residential-Townhouse) District** on the Municipal Zoning Map of the Town of Atoka, Tennessee and the following provisions shall apply.

9.1 Intent - The intent of the R-4 (High Density Residential-Townhouse) District is to allow a combination of higher density single-family and Townhouse developments in a harmonious setting. These areas should be served by all municipal services.

9.2 Uses Permitted

Single-family detached dwellings, not to include mobile homes

Townhouses

Accessory buildings and accessory uses customarily incidental to the above permitted uses.

9.3 Uses Permitted on Appeal - Following public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit the following uses:

Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings and utilities.

Churches

Private or parochial schools

Philanthropic or religious institutions other than churches

Golf courses or country clubs

Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without 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 preserve and protect the character of the neighborhood in which the proposed use is located, and provided further that:

The proposed use shall be located and conducted in the principal building only;

The persons engaged in any such use shall be residents of the dwelling unit in which the proposed use is located;

Not more than twenty (20) percent of the total ground floor area in the dwelling unit shall be devoted to such proposed use;

The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way; and,

The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

9.4 Criteria for BZA Review - Prior to the approval of any use on appeal, the Board of Zoning Appeals shall ensure the requested use adheres to the following criteria:

The use requested on appeal is to be located on a route designated as either an arterial or collector street on the official Major Road Plan for Atoka.

All area, yard and density and parking requirements shall be met.

A site plan of the use shall be submitted to the Board of Zoning Appeals.

If approved, all modifications requested by the Board of Zoning Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the Town of Atoka.

The Board of Zoning Appeals shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the requested use. These may include but shall not be limited to setbacks, screening, lighting parking location and layout, access and general landscaping requirements. This power of review shall not include the authority to specify or alter the architectural style of proposed or existing buildings and the authority to specify building materials, colors or similar considerations.

9.5 Uses Prohibited Any other use not specifically permitted or permitted as a use on appeal by the Board of Zoning Appeals in this section.

9.6 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements.

Minimum Lot Area	
Single-family dwellings	Six thousand (6,000) sq. ft.
Townhouse	3,000 square feet per dwelling unit plus an additional 15 percent required open space calculated on the entire development.
Churches	Two (2) acres
Schools, including parochial or private schools	Five (5) acres plus one (1) acre for each one hundred (100) students
Golf courses or country clubs, including publicly owned	Ten (10) acres
All other uses	One (1) acre or more as required by the BZA

Minimum Lot Width at the Building Line	
Single-family dwellings	Seventy-five (75) feet

Townhouse	One-hundred (100) feet
Churches	Two-hundred (200) feet
Schools, including parochial or private schools	Three-hundred (300) feet
All other uses	One-hundred (100) feet
Minimum Required Front Yard	
Lots fronting on arterial streets	Fifty (50) feet
Residential lots	Twenty-five (25) feet
All other lots	Thirty (30) feet
Minimum Required Side Yard on Each Side of the Lot	
Single-family dwellings	Five (5) feet
Townhouse	Fifteen (15) feet
All other uses	Twenty (20) feet or more as required by the BZA
Minimum Required Rear Yard	
Single-family dwellings	Twenty (20) feet
Two family dwellings	Twenty (20) feet.
All other uses	Thirty (30) feet or more as required by the BZA

9.7 Maximum Number of Principal Buildings Permitted

Single-family residential uses shall be limited to one (1) principal building per lot.

Townhouse residential uses shall have no limitations on the number of principal buildings per lot provided that the lot area and yard requirements are met and provided that the site plan for the complex is approved by the Planning Commission.

Uses other than residential shall have no limitations on the number of buildings provided however, that the aggregate of all buildings shall not cover more than thirty-five (35) percent of the entire lot area.

9.8 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

9.9 Parking Requirements - Off-street parking space shall be provided on the same lot as the principal building in accordance with the 14-201.3.10

9.10 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in

accordance with 14-201.3.3 and the following provisions.

Accessory buildings and uses shall include private garages, carports, swimming pools, and other accessory uses customarily incidental to the previously permitted uses.

No accessory building or use shall be erected in any required front yard.

Accessory buildings or uses shall not cover more than thirty (30) percent of any required rear or side yard and shall be at least five (5) feet from all lot lines, recorded easements or other buildings on the same lot.

Accessory buildings and uses on corner lots shall conform to front yard setbacks for both intersecting streets.

No accessory building or use shall exceed two (2) stories or twenty-five (25) feet in height.

9.11 Recreational Facilities - For all townhouse developments exceeding four units and including phased developments, recreational space and facilities shall be provided. The recreational space shall constitute ten percent of the required minimum lot area as set forth in 14-201.8.5 and shall be landscaped, lighted, and furnished appropriate to the anticipated clientele, i.e., including playground equipment when children are anticipated. The planning commission shall have the authority to modify this proposed recreational space and facilities so as to reasonably serve the anticipated residents.

9.12 Site Plan Review - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

TITLE 14-201 ARTICLE 10-PROVISIONS GOVERNING G-C (GENERAL COMMERCIAL) DISTRICTS

Within the **G-C (General Commercial)** District as shown on the Municipal Zoning Map of Atoka, Tennessee, the following regulations shall apply:

10.1 Intent - The intent of the G-C (General Commercial) District is to provide for suitable areas that provide a variety of commercial activities located along major transportation routes and are serviced by all municipal services.

10.2 Uses Permitted

10.2.1 Retail trade, limited to:

- Building materials, hardware and farm equipment
- General merchandise
- Food
- Automotive, marine craft, aircraft and accessories
- Apparel and accessories
- Furniture, home furnishing and equipment
- Eating and drinking
- Other retail trade, NEC* (*NEC - Not Elsewhere Coded)

10.2.2 Services, limited to:

- Finance, insurance and real estate services
- Personal services
- Business services, excluding warehousing and storage services
- Repair services
- Professional services
- Contract Construction services
- Educational services
- Miscellaneous services
- Amusements
- Recreational activities
- Transient lodgings, limited to:
 - Motels
 - Tourist courts
 - Hotels

10.3 Uses Permitted on Appeal – None

10.4 Uses Prohibited - Any use not specifically permitted in 9.2 or permitted on appeal in 9.3.

10.5 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements.

Minimum Lot Area	
All uses	None
Minimum Lot Width at the Building Line	
All uses	None
Minimum Required Front Yard	
Lots fronting on arterial streets.	Thirty-five (35) feet
All other lots	Five (5) feet
Gasoline pumps and pump islands.	Fifteen (15) feet
Minimum Required Side Yard on Each Side of the Lot	
All uses	No minimum requirement unless the lot is adjacent to a residential district. On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the district.
Minimum Required Rear Yard	
All uses	No minimum requirement unless the lot is adjacent to a residential district. On lots adjacent to a residential district, all buildings shall be located so as to comply with the rear yard requirement of the adjacent residential district on the side adjacent to the district.

10.6 Maximum Number of Principal Buildings Permitted - All Uses: None

10.7 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

10.8 Parking Requirements - Off Street parking requirements shall be provided on the same lot as the principal building in accordance with 14-201.3.10.

10.9 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and further that no accessory building shall be erected or extended into any required front yard.

10.10 Site Plan Review - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

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TITLE 14-201 ARTICLE 11-PROVISIONS GOVERNING N-C (NEIGHBORHOOD COMMERCIAL) DISTRICTS

Within the N-C (**Neighborhood Commercial**) District as shown on the Municipal Zoning Map of Atoka, Tennessee, the following regulations shall apply:

11.1 Intent - The intent of the N-C (Neighborhood Commercial) District is to provide for suitable areas that provide commercial activities that are not high traffic generators, are located near residential areas and are serviced by all municipal services.

11.2 Uses Permitted

11.2.1 Retail trade, limited to:

- General merchandise
- Food
- Apparel and accessories
- Furniture, home furnishings and equipment
- Eating and drinking
- Other retail trade, except for farm and garden supplies

11.2.2 Services, limited to:

- Finance, insurance real estate services
- Personal services
- Business services, including only
 - Advertising service
 - Consumer and mercantile credit reporting services, adjustment and collection services
 - Duplicating, mailing and stenographic services
 - News syndicate services
 - Employment services
 - Other business services, NEC *

11.2.3 Professional services

11.2.4 Contract construction services, offices only

11.2.5 Governmental services, excluding correctional institutions and military bases and reservations

11.2.6 Educational services

11.2.7 Miscellaneous services

11.2.8 Recreational Activities, limited to Recreational centers (general), Gymnasiums and athletic clubs.

*NEC - Not Elsewhere Coded

11.3 Uses Permitted on Appeal – None

11.4 Uses Prohibited - Any use not specifically permitted in 10.2 or permitted on appeal in 10.3.

11.5 Required Lot Area, Lot Width, Yards and Setbacks - Buildings hereafter constructed shall be so located as to comply with the following minimum requirements.

Minimum Lot Area	
All uses	None
Minimum Lot Width at the Building Line	
All uses	None
Minimum Required Front Yard	
Lots fronting on arterial streets.	Thirty-five (35) feet
All other lots	Five (5) feet
Gasoline pumps and pump islands.	Fifteen (15) feet
Minimum Required Side Yard on Each Side of the Lot	
All uses	No minimum requirement unless the lot is adjacent to a residential district. On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the district.
Minimum Required Rear Yard	
All uses	No minimum requirement unless the lot is adjacent to a residential district. On lots adjacent to a residential district, all buildings shall be located so as to comply with the rear yard requirement of the adjacent residential district on the side adjacent to the district.

11.6 Maximum Number of Principal Buildings Permitted - All Uses: None

11.7 Height Regulations - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.

11.8 Parking Requirements - Off Street parking requirements shall be provided on the same lot as the principal building in accordance with 14-201.3.10.

11.9 Accessory Buildings and Uses - Accessory buildings shall be located on the lot in accordance with 14-201.3.3 and further that no accessory building shall be erected or extended into any required front yard.

11.10 Site Plan Review - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a

N-C Districts

building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

TITLE 14-201 ARTICLE 12-PROVISIONS GOVERNING M (INDUSTRIAL) DISTRICTS

Within the **M (Industrial)** Districts, as shown on the Municipal Zoning Map of Atoka, Tennessee, the following regulations shall apply:

12.1 Intent - The intent of the “I” (Industrial) District is to provide for suitable areas that allow for less intensive industrial activities within the town. These areas should be served by all municipal services

12.2 Uses Permitted

12.2.1 Wholesale trade, limited to:

- Motor vehicles and automotive equipment
- Drugs, chemicals and allied products
- Dry goods and apparel
- Groceries and related products
- Farm products (raw materials) except for livestock, horses and mules
- Electrical goods
- Hardware, plumbing and heating equipment and supplies
- Machinery, equipment, and supplies

12.2.2 Other wholesale trade, NEC limited to:

- Metals and minerals (Except petroleum products and scrap)
- Tobacco and tobacco products
- Beer, wine and distilled alcoholic beverages
- Paper and paper products
- Furniture and home furnishings
- Lumber and construction materials
- Other wholesale trade NEC*, except for scrap and waste materials

12.2.3 Retail trade, limited to:

- Eating and drinking
- Materials, hardware and farm equipment

12.2.4 Business services, limited to dwelling and other building services

12.2.5 Warehousing and storage services

12.2.6 Repair services

12.2.7 Professional services, limited to:

- Medical laboratory services
- Dental laboratory services
- Other medical and health services

12.2.8 Contract construction services

12.2.9 Governmental services

12.2.10 Agricultural related activities, limited to animal husbandry services

12.2.11 Manufacturing, limited to:

Apparel and other finished products made from fabrics, leather and similar materials except for leather tanning and finishing
Furniture and fixtures
Printing, publishing and allied industries
Rubber and miscellaneous plastic products
Fabricated metal products
Professional, scientific and controlling instruments; photographic and optical goods; watches and clocks
Miscellaneous manufacturing, NEC*

12.2.12 Motor vehicle transportation

12.2.13 Communication

12.2.14 Utilities

12.2.15 Other transportation, communication and utilities, NEC*

12.2.16 Sexually oriented businesses^{xxv}, as defined by Atoka Municipal Ordinance, entitled "Definitions for Sexually Oriented Businesses," provided that the license issued shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity," as defined by the Atoka Municipal Ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application and provided that the following apply:

The sexually oriented business may not be operated within:

- 750 feet of a church, synagogue or regular place of religious worship;
- 750 feet of a public or private elementary or secondary school;
- 750 feet of a boundary of any residential district;
- 750 feet of a public park;
- 750 feet of a licensed day-care center;
- 750 feet of an entertainment business that is oriented primarily towards children or family entertainment;

A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business classified pursuant to Atoka Municipal Ordinance entitled "Definitions for Sexually Oriented Businesses."

For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected.

For the purposes of subsection (o) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

It shall be unlawful for an owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

Notwithstanding any other Town ordinance, code or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

Exterior signs shall contain no sexual or sexually oriented photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

Violation of any provision of this Section shall constitute a misdemeanor punishable by a fine of \$50 per day, beginning with the date of notification.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

12.3 Uses Permitted on Appeal – None

12.4 Use Prohibited - Any use not permitted in 11.2 or permitted on appeal in 11.3.

12.5 Required Lot Area, Lot Width, and Yards - All buildings and structures shall be located so as to comply with the following requirements.

Minimum Lot Area	
All Uses	None
Minimum Lot Width at the Building Line	
All uses	None
Minimum Required Front Yard	
Lots fronting on arterial streets.	Thirty-five (35) feet
All other lots	Five (5) feet
Gasoline pumps and pump islands.	Fifteen (15) feet

Minimum Required Side Yard on Each Side of the Lot	
All uses	Fifteen (15) feet unless the rear yard abuts a railroad siding in which no yard is required
Minimum Required Rear Yard	
All uses	Twenty (20) feet unless the rear yard abuts a railroad siding in which no yard is required

- 12.6 Maximum Number of Principal Buildings Permitted** - All Uses - None
- 12.7 Height Regulations** - No building shall exceed three (3) stories or thirty-five (35) feet in height except that free-standing poles, towers, spires, and structures not designed for or suitable for human occupancy may exceed this height provided that they comply with the provisions of all other pertinent codes and ordinances, and provided that they are not located on or closer to the nearest property line than the distance equal to their own height plus five (5) feet.
- 12.8 Parking Requirements** - Off Street parking requirements shall be provided on the same lot as the principal building in accordance with 14-201-3.10.
- 12.9 Accessory Buildings and Uses** - No accessory building or use shall be erected or extend into any required front yard.
- 12.10 Site Plan Review** - Prior to the issuance of a building permit, site plan review is required in accordance with 14-201.3.15 of this ordinance for all permitted uses and uses permitted on appeal, except for single family or two (2) family residential structures. Once a site plan has been approved and all modifications, if any, have been made a building permit may be issued. The Building Inspector shall maintain a copy of the site plan in the permanent files of the town.

TITLE 14-201 ARTICLE 13 - PROVISIONS GOVERNING FH (FLOOD HAZARD) DISTRICTS^{xxvi}

Within the areas designated **FH (Flood Hazard)**, as shown on the Municipal Zoning Map of Atoka, Tennessee, the following regulations shall apply:

13.1 Statutory Authorization, Findings of fact, Purpose and Objectives

13.1.1 Statutory Authorization. The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210; Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Atoka, Tennessee, Mayor and Board of Alderman, does ordain as follows:

13.1.2 Findings of Fact

The Town of Atoka Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

Areas of Town of Atoka are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

13.1.3 Statement of Purpose - It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

Control filling, grading, dredging and other development which may increase flood damage or erosion, and;

Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

13.1.4 Objectives - The objectives of this Ordinance are:

To protect human life, health and property;

To minimize expenditure of public funds for costly flood control projects;

To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

To minimize prolonged business interruptions;

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;

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;

To ensure that potential homebuyers are notified that property is in a floodable area; and,

To maintain eligibility for participation in the National Flood Insurance Program.

13.2 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 it's 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:

Accessory structures shall not be used for human habitation.

Accessory structures shall be designed to have low flood damage potential.

Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

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 equaled 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:

The overflow of inland or tidal waters;

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 waters 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:

Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

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;

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,

Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

By an approved state program as determined by the Secretary of the Interior, or,

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:

Built on a single chassis;

400 square feet or less when measured at the largest horizontal projection;

Designed to be self-propelled or permanently towable by a light duty truck; and,

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.

13.3 **GENERAL PROVISIONS**

13.3.1 Application - This Ordinance shall apply to all areas within the incorporated area of Town of Atoka, Tennessee.

13.3.2 Basis for Establishing the Areas of Special Flood Hazard - The Areas of Special Flood Hazard identified on the Town of Atoka, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47167C310F, 47167C330F, 47167C335F and 47167C350F, dated December 19, 2006, and 47167C315G and 47167C320G dated May 04, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

13.3.3 Requirement for Development Permit - A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

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

13.3.5 Abrogation and Greater Restrictions - This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory

instrument, whichever imposes the more stringent restrictions shall prevail.

13.3.6 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.

13.3.7 Warning and Disclaimer of Liability - The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Atoka, 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.

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

13.4 ADMINISTRATION

13.4.1 Designation of Ordinance Administrator - The Building Official is hereby appointed as the Administrator to implement the provisions of this Ordinance.

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

13.4.2.1 Application stage

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.

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.

Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in 14-201.12.1.7.2 of this ordinance.

Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

13.4.2.2 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.

13.4.3 Duties and Responsibilities of the Administrator - Duties of the Administrator shall include, but not be limited to:

13.4.3.1 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.

13.4.3.2 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.

13.4.3.3 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.

- 13.4.3.4** 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.
- 13.4.3.5** 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 14-201.12.1.6 of this ordinance.
- 13.4.3.6** 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 14-201.12.1.6 of this ordinance.
- 13.4.3.7** 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 14-201.12.1.6 of this ordinance.
- 13.4.3.8** 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.
- 13.4.3.9** 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.
- 13.4.3.10** 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 14-201.12.10 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in 14-201.12.12.3.3 of this ordinance.
- 13.4.3.11** 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.

13.5 PROVISIONS FOR FLOOD HAZARD REDUCTION

13.5.1 General Standards - In all flood prone areas the following provisions are required:

- 13.5.1.1** New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 13.5.1.2** 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;
- 13.5.1.3** New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
- 13.5.1.4** New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
- 13.5.1.5** 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;
- 13.5.1.6** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 13.5.1.7** 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;
- 13.5.1.8** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 13.5.1.9** 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,
- 13.5.1.10** 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.

13.5.2 Specific Standards - These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

- 13.5.2.1 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 14-201.14.1.7.2 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 14-201.12.1.5 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in 14-201.12.1.7.2

13.5.2.2 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.

13.5.2.2.1 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 14-201.12.1.7.2 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in 14-201.12.1.7.2.

13.5.2.2.2 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 14-201.12.1.7.2.

13.5.2.3 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.

- 13.5.2.3.1** Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
- 13.5.2.3.2** 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;
- 13.5.2.3.3** The bottom of all openings shall be no higher than one foot above the finish grade; and,
- 13.5.2.3.4** Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- 13.5.2.3.5** 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,
- 13.5.2.3.6** 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 14-201.12.1.7.2 of this Ordinance.

13.5.2.4 Standards for Manufactured Homes and Recreational Vehicles

- 13.5.2.4.1** 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.
- 13.5.2.4.2** All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - 13.5.2.4.2.1** 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,
 - 13.5.2.4.2.2** 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.

13.5.2.4.3 Any manufactured home, which has incurred “substantial damage” as the result of a flood or that has substantially improved, must meet the standards of 14-201.12.1.8.3 of this Ordinance.

13.5.2.4.4 All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

13.5.2.4.5 All recreational vehicles placed on identified flood hazard sites must either:

Be on the site for fewer than 180 consecutive days;

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

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.

13.5.2.5 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:

13.5.2.5.1 All subdivision proposals shall be consistent with the need to minimize flood damage.

13.5.2.5.2 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

13.5.2.5.3 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

13.5.2.5.4 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.

13.5.3 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 14-201.12.1.6.2 in this ordinance 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:

13.5.3.1 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.

13.5.3.2 New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of 14-201.12.1.8 of this ordinance.

13.5.4 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 14-201.12.1.8 of this ordinance where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

13.5.4.1 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.

13.5.4.2 New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with 14-201.12.1.8 of this ordinance.

13.5.5 Standards for Streams without Established Base Flood Elevations or Floodways (A Zones) Located within the Areas of Special Flood Hazard established in 14-201.12.1.6 of this ordinance 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:

13.5.5.1 When base flood elevation data or floodway data have not been provided in accordance with 14-201.12.1.6, 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 14-201.12.1.8. ONLY if data is not available from these sources, then the following provisions (14-201.12.1.8.7.2 & 14-201.12.1.8.7.3) shall apply:

13.5.5.2 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.

13.5.5.3 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 14-201.12.1.6 of this ordinance and "Elevated Buildings".

13.5.6 Standards For Areas of Shallow Flooding (AO and AH Zones) - Located within the Areas of Special Flood Hazard established in 14-201.12.1.6 of this ordinance 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:

13.5.6.1 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 14-201.12.1.8.2 of this ordinance and "Elevated Buildings".

13.5.6.2 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 14-201.12.1.6 of this ordinance.

13.5.6.3 Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

13.5.6.4 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.

13.5.7 Standards For Areas Protected by Flood Protection System (A-99 Zones) -

Located within the areas of special flood hazard established in 14-201.12.1.8 of this ordinance 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 14-201.12.1.6 and 14-201.12.1.8.1 shall apply.

13.5.8 Standards for Unmapped Streams - Located within Town of Atoka, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

13.5.8.1 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 locality.

13.5.8.2 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 14-201.12.1.6.

13.5.9 VARIANCE PROCEDURES - The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Town of Atoka, Tennessee.

13.5.9.1 Board of Zoning Appeals

13.5.9.1.1 The Town of Atoka Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

13.5.9.1.2 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.

13.5.9.1.3 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:

The danger that materials may be swept onto other property to the injury of others;

The danger to life and property due to flooding or erosion;

The susceptibility of the proposed facility and its contents to flood damage;

The importance of the services provided by the proposed facility to the community;

The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

The safety of access to the property in times of flood for ordinary and emergency vehicles;

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;

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.

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.

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

13.5.9.2 Conditions for Variances

13.5.9.2.1 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.

13.5.9.2.2 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.

13.5.9.2.3 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.

13.5.9.2.4 The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

13.5.10 LEGAL STATUS PROVISIONS

13.5.10.1 Conflict with Other Ordinances - In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of Town of Atoka, Tennessee, the most restrictive shall in all cases apply.

13.5.10.2 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.

13.5.10.3 Effective Date - This Ordinance shall become effective immediately after its passage, in accordance with the Charter of Town of Atoka, Tennessee, and the public welfare demanding it.

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TITLE 14-201 ARTICLE 14 - EXCEPTIONS AND MODIFICATIONS

- 14.1 Lot of Record** - Where the owner of a lot of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance, in accordance with 14-201.15. Permission to use such lots may be granted, however, providing that the yards and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.
- 14.1.1 Minimum 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 sixty (60) feet and whose total lot area is less than three thousand five hundred (3,500) square feet.
- 14.1.2 Adjoining Substandard Lots of Record** - Where two or more substandard lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a 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.
- 14.2 Setback Line** - The setback requirements of this ordinance for dwellings 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 feet. In residential districts, however, the setback shall in no case be less than twenty (20) feet from the centerline of the streets.
- 14.3 Exceptions on Height Limits** - The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts and aerials.
- 14.4 Specific Standards for Non-Inhabitable Structures that Exceed Height Limits** – In addition to the requirements of the applicable district, a special exception shall be granted for non-inhabitable structures when the standards established are met as part of the condition for issuing the permit in the applicable zone districts. The provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative treatment of physical features or landscaping that meet the intent and purpose of this section.
- 14.4.1 Setbacks** - In instances when a tower and accessory structures are constructed adjacent to a residential district, either immediately adjacent to such property or across a public way, the minimum setback from a residential lot line or a residential district, shall be equal to one hundred (100) percent of the tower height plus ten feet.
- 14.4.2 Type** - All new towers over sixty (60) feet in height shall be of monopole type structure. No lattice type antennas or towers over sixty (60) feet in height shall be permitted in the Town of Atoka.

14.4.3 Structural Requirements - Prior to the approval of any application for a tower or the co-use of an existing tower or utility structure, the applicant shall provide written certification from a registered structural engineer that the tower is able to withstand winds of a minimum of seventy (70) miles per hour with one-half (1/2) inch radial ice.

14.4.4 Screening and Landscaping

For all ground structures and buildings, special care shall be taken to minimize the effects on adjacent residential areas.

All ground structures shall be screened in a manner, which consists of a minimum of an eight (8) foot wide landscaped strip around the perimeter of the security fencing. The screen shall consist of a combination of trees, shrubs, vines and ground covers that blends and enhances the appearance of the ground structures with the surrounding area. The screen shall be installed for the permanent year round protection of adjacent property by visually shielding internal activities from adjoining property to a height of eight (8) feet or the height of the proposed accessory structures, whichever is greater. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or physical features that meet the intent and purpose of this section.

14.4.5 Co-Located Towers and Antennas - The co-location of towers and antennas shall only be permitted on existing and proposed telecommunications towers and public utility structures consisting of power line structures or water towers in excess of thirty-five (35) feet in height.

14.4.6 Vehicle Access Control - The Location and design of driveways and/or access easements to the facility from a public street shall be depicted on the site plan and shall be approved by the Board of Zoning Appeals in accordance with these regulations.

14.4.7 Lighting

14.4.7.1 Towers: Lighting of structures, as required for safety purposes, shall be dual - red and medium intensity white, whereby solid-red shall provide lighting during the evening, and medium-intensity-white shall provide lighting during the day.

14.4.7.2 Structures: Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination occurs only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent residential properties and public streets.

14.4.7.3 If the proposed tower is required by FAA (Federal Aviation Administration) to be lighted by means other than specified in Section 8. B. of this Ordinance, then the applicant shall be required to move the tower or reduce the height of the tower to eliminate the requirement for alternative lighting.

- 14.4.8** Security - The cellular tower facility shall be fully secured through the installation of a security fencing/wall system of a minimum height of eight (8) feet or the height of the accessory structures, whichever is greater.
- 14.4.9** Removal of Obsolete Towers - Any tower that is no longer in use for its original communication purpose shall be removed at the owner's expense. The owner shall provide the Town with a copy of the notice of intent to the FCC to cease operations and shall be given ninety (90) days from the date of the ceasing of operations to remove the tower and all accessory structures, provided another operator has not submitted a request for a tower during that time period. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations
- 14.4.10** Prior to the issuance of a permit for any tower, co-use of any tower or co-use of any utility structure, a surety instrument (i.e. letter of credit or bond), which shall serve to ensure prompt removal of the tower once it ceases to operate, shall be provided by all users. The amount of the surety instrument and subsequent fines or refusal to remove an obsolete tower shall be determined by the Board of Mayor and Alderman of Atoka and the Town engineer and then approved by the Planning Commission during the site plan review process.
- 14.4.11** Site Plan requirements- Prior to the issuance of a building permit, for telecommunications or television transmission purposes, the construction of a tower, or the utilization of an existing structure, a site plan must be drawn to a scale of not less than 1" - 50' by a licensed surveyor or engineer. Submissions of a site plan shall depict the requirements set forth below in addition to the provisions in the Atoka Municipal-Regional Zoning Ordinance,
- 14.4.12** If the proposed tower is a new tower not on an existing utility structure, the site plan shall show the location of the initial user's accessory structure and the location of two (2) future accessory structures.
- 14.4.13** A letter of intent from the owner and any successive owners allowing for the shared use of the tower.
- 14.4.14** A letter from a professional engineer certifying that the tower's height and design complies with these regulations and applicable structural standards and, also describes the tower's capacity which includes the number and type of antennas that can be accommodated.
- 14.4.15** A letter indicating why existing towers within one (1) mile of the proposed tower location cannot be utilized.
- 14.4.16** Any other requirements as required by the Atoka Municipal-Regional Site Plan Review requirements
- 14.4.17** Expiration of Approval or Renewal - A site plan approved by the Planning Commission shall lapse unless a building permit, based thereon, is issued within three (3) years from the date of such approval unless an extension of time is applied for and given by the Planning Commission.

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TITLE 14-201 ARTICLE 15 - ENFORCEMENT

- 15.1 Lot of Record** - Where the owner of a lot of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance, in accordance with 14-201.15. Permission to use such lots may be granted, however, providing that the yards and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.
- 15.2 Enforcing Officer** - The provisions of this ordinance shall be administered and enforced by a building inspector, appointed by the chief legislative body, who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.
- 15.3 Building Permits and Certificates of Occupancy** - It shall be unlawful to commence the excavation or filling of any lot for the construction of any buildings, including accessory buildings, or to commence the moving or alteration of any building inspector has issued a building permit for such work.
- 15.3.1 Issuance of a Building Permit.** In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size and location of the lot to be built upon; the shape, size, height, and location of all buildings to be erected, altered, or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this ordinance are being observed. If the proposed excavation, filling or construction, as set forth in the application, is in conformity with the provisions of this ordinance and other ordinances of the Town of Atoka then in force, the building inspector shall issue a building permit for such excavation or construction upon payment of the required fee. If a building permit is refused, the building inspector shall state such refusal in writing with the cause. Building permits must be used within six (6) months after permit is issued. If no substantial progress on construction has been made six (6) months after the permit is issued, the permit is considered to be expired.
- 15.3.2 Certificate of Occupancy.** Upon the completion of the construction or alteration of a building for which permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three (3) days of such application, the building inspector shall make a final inspection of the property in question and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of this ordinance and the statements made in the application for the building permit. If such certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use shall be used until such a certificate of occupancy has been granted.

Enforcement

- 15.4 Penalties** - Any person violating any provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2) nor more than fifty dollars (\$50) for each offense. For each day such violation shall continue constitutes a separate offense.
- 15.5 Remedies** - In case any building, structure or land is used, erected, constructed, reconstructed, repaired, converted or maintained in violation of this ordinance, the building inspector or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus or other appropriate action or proceedings to prevent the occupancy or use of such building.

TITLE 14-201 ARTICLE 16 - BOARD OF ZONING APPEALS (BZA)

16.1 Creation and Appointment - A Board of Zoning Appeals is hereby established in accordance with Section 13-7-205 of the Tennessee Code Annotated. The Board of Zoning Appeals shall consist of three (3) members, not less than one (1) of whom may be a member of the Atoka Municipal / Regional Planning Commission appointed by the chief executive officer of the town, and confirmed by a majority vote of the Board of Mayor and Aldermen. The term of membership shall be three (3) years, except that the initial individual appointments to the Board shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for an unexpired term by appointment by the chief executive officer and confirmation by the Board of Mayor and Aldermen.

16.2 Procedure - Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and action thereon, which shall be a public record.

16.3 Appeals - An appeal to the Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within fifteen (15) days from the date of the hearing. Upon the hearing any person or party may appear and be heard in person or by agent or attorney.

16.4 Powers - The Board of Zoning Appeals shall have the following powers:

16.4.1 Administrative Review

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or change made by the building inspector or other administrative official in the refusal, carrying out or enforcement of any provision of this Ordinance.

To permit the extension of a district for a district for a distance of not more than twenty-five (25) feet where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this Ordinance.

To interpret the Official Zoning Map where questions of designation arise.

To interpret with the use of the Standard Land Use Coding Manual whether or not a specific use falls into the categories listed in the Commercial and Industrial district sections.

16.4.2 Variance - Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application

of any provision of this Ordinance would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of such property, to authorize upon appeal related to said property a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance. Before any variance is granted it shall be shown that circumstances are attached to the property which does not generally apply to other property in the neighborhood. Financial disadvantage to the property owner is not sufficient proof of hardship.

- 16.4.3** Special Exceptions - Allow, in accordance with the following procedure, the uses designated as permitted on appeal provided that prior to the establishment of any use permitted on appeal by the Board of Zoning Appeals, the applicant shall submit a site plan in accordance with 14-201.3.15, showing the development concept for the tract with the Board of Zoning Appeals having the right to refer the site plan to the Planning Commission for a review and recommendation, but shall approve or deny the application within thirty (30) days of submission to the Board unless the applicant allows additional time for action and that all provisions set forth in the appropriate zoning district have been met.
- 16.4.4** The Board of Zoning Appeals shall not have the power to permit a use prohibited by this ordinance, have the power to expand a non conforming use or have the power to subdivide land.

TITLE 14-201 ARTICLE 17 - AMENDMENT

- 17.1 Zoning Amendment Petition** - The Board of Mayor and Alderman, of Atoka, Tennessee, may amend the regulations, restrictions, boundaries, or any provision of this ordinance. Any member of the Board of Mayor and Aldermen may introduce such amendment, or any official, board or any other person may present a petition to the Board of Mayor and Aldermen requesting an amendment or amendments to this ordinance.
- 17.2 Planning Commission Review** - No amendment shall become effective until it is first submitted to and approved or disapproved by the Atoka Municipal / Regional Planning Commission. If the proposed amendment is disapproved by the planning commission, it shall require the favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen to make such amendment effective. If the Atoka Municipal / Regional Planning Commission does not approve or disapprove an amendment which has been submitted for their review within thirty (30) days after such submission, the failure to act on such amendment shall be deemed approval.
- 17.3 Public Hearing on Proposed Amendment** - Upon the introduction of any amendment to this ordinance or upon the receipt of a petition to amend this ordinance, the Board of Mayor and Aldermen shall publish a notice of such request for an amendment, together with the time set for hearing by the Board of Mayor and Aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Atoka, Tennessee. Such hearing by the Board of Mayor and Aldermen shall take place not sooner than fifteen (15) days after the date of publication of notice of such hearing shall be collected by the Town of Atoka from any party or parties entering a petition for amendment.

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TITLE 14-201 ARTICLE 18-LEGAL STATUS PROVISIONS

- 18.1 Conflict with other Ordinances** - In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Atoka, Tennessee, the most restrictive shall apply in all cases.
- 18.2 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.
- 18.3 Effective Date** - This ordinance shall take effect and be in force immediately after adoption, the public welfare requiring it.

Approved and Certified by the Planning Commission.

Brett Pickard

Secretary of Planning Commission

Date of Public Hearing September 3, 1996

Passed First Reading August 6, 1996

Passed Second Reading September 3, 1996

Charles L. Walker

Mayor (signature)

Attest:

Donna S. Billings

Town Recorder (signature)

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TITLE 14-201 ARTICLE 19 - DEFINITIONS FOR SEXUALLY ORIENTED BUSINESSES

19.1 Purpose and Findings

19.1.1 Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

19.1.2 Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board of Mayor and Aldermen, and on findings incorporated in the cases of *Tendon v. Playtime Theatres, Inc.*, 475 U. S. 41 (1986); *Young v. American Mini Theatres*, 426 U. S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U. S. 560 U. S. 109 (1972); *Jacobucci v. Town of Newport, Ky.* 479 U. S. 92 (1986); *United States v. O'Brien*, 391 U. S. 367(1968); *DLS, Inc. v. Town of Chattanooga*, 107 F. 3d 403 (6th Cir. 1997); *Kev, Inc. v. Kitts County*, 793 F. 2d 1053 (9th Cir. 1986); *Hang On, Inc. v. Town of Arlington*, 65 F. 3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. Town of Miami*, 734 F. 2d 608 (11th Cir. 1984); as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma Town, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography(1986), the Report of the Attorney General's Working Group On The Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Board of Mayor and Aldermen finds that:

19.1.2.1 Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

19.1.2.2 Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g. studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

- 19.1.2.3** Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., *California v. LaRue*, 409 U. S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- 19.1.2.4** Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- 19.1.2.5** Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., *Arcara v. Cloud Books, Inc.*, 478 U. S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- 19.1.2.6** At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS) genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g. Study of Fort Meyers, Florida.
- 19.1.2.7** For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See e.g. Statistics of the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- 19.1.2.8** As of February 1994, there have been 3,755 reported cases of AIDS in the State of Tennessee.
- 19.1.2.9** Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for HIV antibody test in Tennessee.
- 19.1.2.10** The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. See, e.g. Statistics of the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- 19.1.2.11** The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See E.G. Statistics of the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention.

- 19.1.2.12** The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- 19.1.2.13** According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- 19.1.2.14** Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General’s Commission on Pornography (1986) at 377.
- 19.1.2.15** Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in areas of sexually oriented businesses where persons view “adult” oriented films. See, e.g., Final Report of the Attorney General’s Commission on Pornography (1986) at 377.
- 19.1.2.16** Nude dancing in adult establishments encourages prostitution, increases the likelihood of drug dealing and drug use. See, e.g., *Kev, Inc. v. Kitsap County*, 793 F. 2d 1053, 1056 (9th Cir. 1986).
- 19.1.2.17** Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., *Kev, Inc. V. v. Kitsap County*, 793 F. 2d 1053, 1056 (9th Cir. 1986).
- 19.1.2.18** The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.
- 19.1.2.19** Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- 19.1.2.20** A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a hereto fore non-existent incentive on the operators to see that the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- 19.1.2.21** Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing illegal and unsanitary sexual activity occurring in adult establishments.

- 19.1.2.22** The disclosure of certain information by that person ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.
- 19.1.2.23** It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct this ordinance is designed to prevent or who are likely to be witnesses to such activity.
- 19.1.2.24** The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this ordinance.
- 19.1.2.25** The barring of such individuals from operation or employment in sexually oriented businesses for a period of ten (10) years for a previous felony conviction serves as a deterrent to the persons conduct which leads to the transmission of sexually transmitted diseases.
- 19.1.2.26** The general welfare, health, morals, and safety of the citizens of this Town will be promoted by the enactment of this ordinance.

19.2 “Definitions for Sexually Oriented Businesses”

19.2.1 ADULT ARCADE means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

19.2.2 ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe “specified sexual activities” or “specified anatomical areas”; or,

Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specific sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business

purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE OR ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas.” A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

19.2.3 Adult Cabaret means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

Persons who appear in a state of nudity or semi-nudity; or,

Live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or,

Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or,

Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

19.2.4 ADULT MOTEL means a hotel, motel or similar commercial establishment that:

Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or,

Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or,

Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

19.2.5 ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

19.2.6 ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

19.2.7 DIRECTOR means the chief of police and such employee(s) of the police department as he may designate to perform the duties of the director under this ordinance.

- 19.2.8 EMPLOYEE** means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does “employee” include a person exclusively on the premises as a patron or customer.
- 19.2.9 ESCORT** means a person whom for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- 19.2.10 ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- 19.2.11 ESTABLISHMENT** means and includes any of the following:
- The opening or commencement of any sexually oriented business as a new business;
 - The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - The additions of any sexually oriented business to any other existing sexually oriented business; or,
 - The location of any sexually oriented business; or,
 - A sexually oriented business or premises on which the sexually oriented business is located.
- 19.2.12 LICENSED DAY-CARE CENTER** means a facility licensed by the State of Tennessee whether situated within the Towns or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
- 19.2.13 LICENSEE** means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.
- 19.2.14 NUDE MODEL STUDIO** means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.
- 19.2.15 NUDITY or a STATE OF NUDITY** means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals,

or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

19.2.16 PERSON means an individual, proprietorship, partnership, corporation, association or other legal entity.

19.2.17 PREMISES means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section IV of this ordinance;

19.2.18 SEMI-NUDE OR SEMI-NUDITY means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

19.2.19 SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or,

Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

19.2.20 SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or any other business primarily dealing with nude entertainment.

19.2.21 SPECIFIED ANATOMICAL AREAS means:

The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

19.2.22 SPECIFIED CRIMINAL ACTIVITY means any of the following offenses:

Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

For which:

Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

Less than ten (10) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

19.2.23 SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

Masturbation, actual or simulated; or,

Excretory functions as part of or in connection with any of the activities set forth in 14-201-18.2.23.1 through 14-201-18.2.23.3 above.

19.2.24 SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas exist on January 31, 2000.

19.2.25 TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

The sale, lease, or sublease of the business;

The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or,

The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

TITLE 14-201 ARTICLE 20 - APPENDICES

20.1 Appendix A1: Building Permit

20.2 Appendix A2: Petition of Change or Relief

20.3 Appendix A3: Site Plan Certificates

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A - 1 BUILDING PERMIT (Void after 180 days)

Permit Number: _____

Date Issued: _____

Fee: \$ _____

() Check # _____ () Cash

Sewer Tap Fee: \$ _____

() Check # _____ () Cash

Owners Name: _____

Address: _____

Daytime Phone Number () _____ - _____ Other Phone Number () _____ - _____

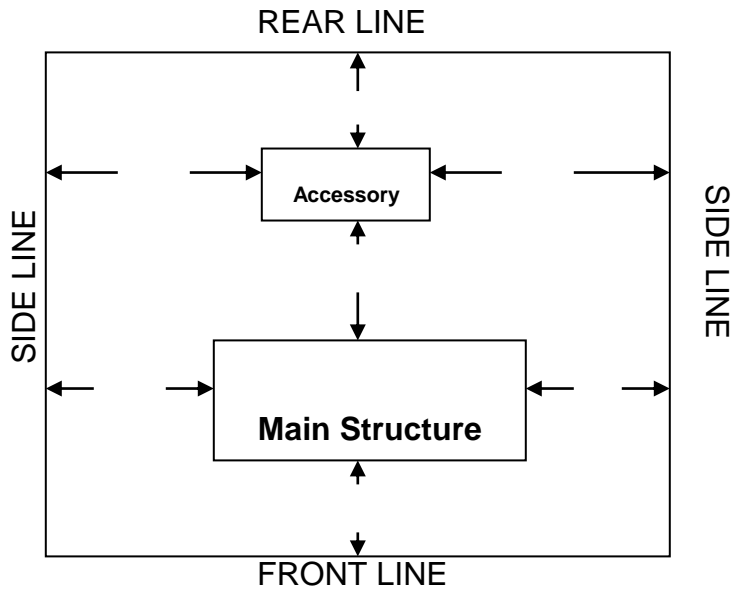
Name of Subdivision: _____ Lot Number: _____

INTENDED USE:

- () Residence
- () Commercial
- () Industrial
- () Other: _____

PERMIT FOR:

- () New Construction
- () Mobile Home
- () Addition
- () Accessory Building
- () Other: _____



Ground Floor Area: _____ ft X _____ ft = _____ sq. ft. Construction Cost \$ _____

WATER SUPPLY

- () Public () Well

FLOORS

- () Slab () Conventional () Mono

SEWAGE DISPOSAL

- () Public () Septic

EXTERIOR WALLS

- () Brick () Wood () Other

I, _____, certify that the information shown is correct and that if a permit is granted, I hereby agree to abide by all the requirements of the Town's Building Code, Zoning Law and other Town Laws affecting the proposed structure.

Applicant

Building Inspector

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A -2 - PETITION FOR CHANGE OR RELIEF UNDER THE MUNICIPAL ZONING ORDINANCE OR MAP OF THE TOWN OF ATOKA

1. **Applicant** Name _____
Address _____

2. **Owner** Name _____
Address _____

3. **Nature of Petition:** Rezoning _____ Use on Appeal _____ Variance _____
Ordinance Amendment _____ Ordinance Interpretation _____

4. **If requesting a Rezoning, fill out the following section:**

a. Street Address: _____

b. Tax Map Number: _____ Parcel Number: _____ Area in Acres: _____

c. Vicinity Roads: _____

d. Zoning: Present: (R-1) (R-2) (R-3) (G-C) (N-C) (M) Requested: (R-1) (R-2) (R-3) (G-C) (N-C) (M)

e. Available Utilities: Water (yes) (no) Sewer (yes) (no) Electric (yes) (no)

f. Map of affected property: (yes) (no)

5. **If requesting a Use on Appeal, fill out the following section:**

a. Property address affected _____

b. Present Zoning _____

c. Reason for request _____

d. Attach Site Plan of existing or proposed structure for the use on appeal

6. **Any other request, fill out the following section:**

a. Present Zoning: _____

b. Reason for request: _____

I, _____ hereby certify that the statements made here in by me herein and the maps other accompanying data submitted herewith are true and correct. I will be responsible for the cost of publishing and filing this application.

Signature of Applicant

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SITE PLAN CERTIFICATES

CERTIFICATE OF ACCURACY OF ENGINEERING AND DESIGN

I, _____ (printed name of signer) _____, a professional Architect, Engineer, Surveyor ^{xxvii} do hereby certify that the plans, engineering and designs governing the construction this site plan are true and correct, and conform to the requirements set forth in the Zoning Ordinance of Town of Atoka, Tennessee.

_____, 20 _____

Date

Signature

PLANNING COMMISSION CERTIFICATE

I, _____ (printed name of signer) _____ do hereby certify that the Atoka Municipal / Regional Planning Commission has approved this site plan.

_____, 20 _____

(Date)

Secretary, Atoka Municipal / Regional Planning Commission

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END NOTES

- ⁱ Readopted in 1996 – Ordinance 96-09-01
- ⁱⁱ Amended January 7, 2003 – Ordinance 02-12-03
- ⁱⁱⁱ Amended February 6, 2001 – Ordinance 01-01-03
- ^{iv} Amended July 7, 2001 – Ordinance 01-06-02
- ^v Amended December 7, 2007 – Ordinance 07-11-01 Changed from 9 X 18 back to 10 X 20
- ^{vi} Amended March 1, 2005 – Ordinance 05-02-02 - Changed from 10 X 20 to a minimum of 9 X 18 (deleted 9X18 12/7/2007)
- ^{vii} Amended December 7, 2007 – Ordinance 07-11-01
- ^{viii} Added September 7, 2004 – Ordinance 04-07-02
- ^{ix} Added March 1, 2005 – Ordinance 05-02-02
- ^x Added December 7, 2007 – Ordinance 07-11-01
- ^{xi} Added December 7, 2007 – Ordinance 07-11-01
- ^{xii} Added December 7, 2007 – Ordinance 07-11-01
- ^{xiii} Added December 7, 2007 – Ordinance 07-11-01
- ^{xiv} Added December 7, 2007 – Ordinance 07-11-01
- ^{xv} Added December 7, 2007 – Ordinance 07-11-01
- ^{xvi} Amended March 1, 2005 – Ordinance 05-02-02 – Changed from 35’ to 36’
- ^{xvii} Added May 2, 2006 – Ordinance 06-04-03
- ^{xviii} Added April 3, 2007 – Ordinance 07-03-01
- ^{xix} Added May 4, 2010 – Ordinance 10-02-03
- ^{xx} Added May 4, 2010 – Ordinance 10-02-04
- ^{xxi} Amended in 1994 – Ordinance 94-09-11
- ^{xxii} Amended in 2002 - Ordinance 02-09-01
- ^{xxiii} Amended September 7, 2004 – Ordinance 04-06-02 – Changed from 75’ to 100’
- ^{xxiv} Amended September 7, 2004 – Ordinance 04-06-02 – Changed from 60’ to 75’
- ^{xxv} Added March 7, 2000 – Ordinance 00-01-00
- ^{xxvi} Amended February 6, 2001 – Ordinance 01-01-04,
Replaced with LPAO model October 3, 2006 – Ordinance 06-09-03
- ^{xxvii} Surveyor added May 6, 1997 – Ordinance 97-04-02