ARTICLE I

GENERAL PROVISIONS

SECTIONS

1-101 TITLE AND PURPOSE
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1-101 TITLE AND PURPOSE

1-101.1 Long Title - A resolution, in pursuance of the authority granted by Sections 13-7-101 through 13-7-116, Tennessee Code, to provide for the establishment of districts within the planning jurisdiction of Sullivan County, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings, and other structures for trade, industry, residence, recreation, public activities and similar purposes to include special districts for areas subject to flooding and areas developed as a planned unit; to provide regulations governing non conforming uses and structures; to provide for a board of appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this resolution and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this resolution; and to provide for conflicts with other resolutions or regulations.

1-101.2 Short Title - This resolution shall be known as The Zoning Resolution of Sullivan County, Tennessee, effective ***January 1, 2004*** The zoning map shall be referred to as the "Official Zoning Map of Sullivan County, Tennessee", and all explanatory matter thereon is hereby adopted and made a part of this resolution. Together, the Zoning Map and Zoning Resolution shall be referred to the Sullivan County Zoning Plan pursuant to the Section 13-7-102 of the Tennessee Code. Amendments to the text or the map may be approved simultaneously or separately; however shall correspond to each other. Subsequent amendments are noted at the end of each amended paragraph and noted on the Title Page.

1-102 LEGISLATIVE ENACTMENT

WHEREAS, Sections 13-7-101 through 13-7-116, of the Tennessee Code, empower the county to enact a zoning resolution for the county and to provide for its administration, enforcement, and amendment, and

WHEREAS, the County Commission deems it necessary, for the purpose of promoting the health, safety, morals, and general welfare of the county to enact such an resolution, and

WHEREAS, the County Commission, pursuant to the provisions of the Tennessee Code, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Regional Planning Commission has divided the area included within the planning jurisdiction of the county into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; 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, and

WHEREAS, the Regional Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate uses for the land throughout the planning jurisdiction, and

WHEREAS, the Regional Planning Commission has submitted its final report to the County Commission, and

WHEREAS, the County Commission has given due public notice of hearings related to zoning districts, regulations, and restrictions, and has held public hearings, and

WHEREAS, all the requirements of the Tennessee Code, with regard to the preparation of the report by the Regional Planning Commissions and subsequent action of the County Commission have been met;

THEREFORE, BE IT RESOLVED BY THE COUNTY COMMISSION OF SULLIVAN COUNTY, TENNESSEE

1-103 INTENT AND PURPOSE This resolution is enacted pursuant to Title 13, of the Tennessee Code, for the following purposes:

A. To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;

B. To divide the territory included within the county's planning jurisdiction into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing, and other specified uses;

C. To protect the character and maintain the stability of residential, business, commercial, and manufacturing areas within the planning jurisdiction of the county, and to promote the orderly and beneficial development of such areas;

D. To provide adequate light, air, privacy, and convenience of access to property;

E. To regulate the intensity building development and assure that open spaces surrounding buildings that are adequate to provide necessary light and air and protect the public health.

F. To establish building lines and the location of buildings designated for residential, business, commercial, manufacturing, or other uses within such lines;

G. To fix reasonable standards to which buildings or structures shall conform;

H. To prohibit uses, buildings, or structures that are incompatible with the character of development or the permitted uses within specified zoning districts;

I. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;

J. To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles, control of access to public streets and for the loading and unloading of commercial vehicles;

K. To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety; comfort, and general welfare;

L. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;

M. To conserve the taxable value of land and buildings throughout the county;

N. To provide for the gradual elimination of those uses of land, buildings and structures that do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;

O. To define and limit the powers and duties of the administrative officers and bodies as provided herein;

P. To protect and in general allow for the beneficial uses of property.

1-104 INTERPRETATION - In their interpretation and application, the provisions of this resolution shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

1-105 RELATIONSHIP TO OTHER LAWS AND PRIVATE RESTRICTIONS

A. Where the conditions imposed by any provisions of this resolution upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this resolution or any other law, or resolution, of any kind, the provisions that are more restrictive shall apply.

B. This resolution is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this resolution are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this resolution to the extent that they are more restrictive shall govern.

1-106 RESOLUTION PROVISIONS DO NOT CONSTITUTE PERMIT - Nothing contained in this resolution shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

1-107 PROVISIONS ARE CUMULATIVE - The provisions of this resolution are cumulative with any additional limitations imposed by all other laws and resolutions, heretofore, passed or which may be passed hereafter governing any subject matter appearing in this resolution.

1-108 SEPARABILITY - It is hereby declared to be the intention of the County Commission of Sullivan County, Tennessee, that the several provisions of this resolution are separable in accordance with the following:

A. Should any court of competent jurisdiction adjudge any provision of this resolution invalid, such judgment shall not affect any other provision of this resolution not specifically included in said judgment.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this resolution to a particular property, building, or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

1-109 APPLICATION OF REGULATIONS - No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the planning jurisdiction of the county, except as specifically or by necessary implication, authorized by this resolution. Variances to this Resolution are allowed only on permit granted by the Board of Zoning Appeals upon finding that the specified hardship conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

ARTICLE II

ESTABLISHMENT OF DISTRICTS
PROVISIONS FOR OFFICIAL ZONING MAP

SECTIONS

2-101 ESTABLISHMENT OF DISTRICTS
2-102 PROVISIONS FOR OFFICIAL ZONING MAPS
2-103 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES
2-104 APPLICATION OF DISTRICT REGULATIONS
2-105 ZONING CHANGES IN EVENT OF CHANGES TO GROWTH PLAN

2-101 ESTABLISHMENT OF DISTRICTS

2-101.1 Relationship to Public Chapter 1101, of 1998 - Upon approval of the Urban Growth Plan for Sullivan County, the cities and the county government committed themselves to a process that is intended to direct growth and development on a countywide basis for the next twenty (20) years. This plan, as specified in the law, established three types of growth areas:

2-101.2 Urban Growth Boundaries (UGB) – territory that is contiguous to and outside the corporate limits of a municipality where high-density residential, commercial and manufacturing growth is expected, or where a municipality is better able than other municipalities to provide urban services.

2-101.3 Planned Growth Areas (PGA) – territory outside municipalities where high or moderate density commercial, manufacturing and residential growth is projected.

2-101.4 Rural Areas (RA) – territory not in a UGB or a PGA and that is to be preserved as agricultural lands, low-density residential, forests, recreational areas, and wildlife management areas or for uses other than high-density commercial, manufacturing and residential development. The Sullivan County Regional Planning Commission has set a policy regarding such rural areas in support of the intent of PC1101 state law. From time-to-time the regional planning commissions and/or County Commission may amend or establish other policies regarding zoning classifications, densities, land-uses and the like as consistent with the growth plan and PC 11001 law.

Over a period of several months the Sullivan County Coordinating Committee (a body comprised of members specified in Public Chapter 1101) developed the countywide Urban Growth Plan. Following necessary public hearings and other legally required processes this plan was adopted and now has the force of law.

One requirement established in Public Chapter 1101, that is particularly pertinent to the establishment and operation of zoning law within the county is the requirement established in Section 6-58-107, Tennessee Code, that reads as follows:

"After a growth plan is so approved, all land use decisions made by the legislative body and the municipality's or county's Planning Commission shall be consistent with the growth plan."

In order to meet this legal mandate it has been determined that the various zoning districts created by this Zoning Resolution must be tailored to the general purposes established within the three types of growth areas, i.e., (UGB), (PGA), and (RA).

2-102 PROVISIONS FOR OFFICIAL ZONING MAPS

2-102.1 Incorporation of Maps - The boundaries of districts established by this resolution are shown on the official zoning maps, which are, hereby, incorporated into the provisions of this resolution. The zoning maps in their entirety, including all amendments shall be as much a part of this resolution as if fully set forth and described, herein.

2-102.2 **Identification and Alteration of the Official Zoning Map** - The official zoning map shall be identified by the signature of the County Mayor, attested by the County Court Clerk, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map, referred to in ARTICLE II, of Sullivan County, Tennessee, together with the date of the adoption of this resolution.

If, in accordance with the provisions of this resolution changes are made in district boundaries or other matter portrayed on the official zoning maps, such changes shall be entered on the official zoning maps promptly after the amendment has been approved by the County Commission. No amendment to this resolution, which involves matter portrayed on the official zoning map, shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon, except in conformity with the procedures set forth in this resolution. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this resolution and punishable as provided under ARTICLE XII, Section 13-107.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the Land Use Office. The Building Commissioner shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the jurisdictional area.

2-102.3 **Replacement of Official Zoning Map** - In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the County Commission may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment, thereof. The new official zoning map shall be identified by the signature of the County Mayor, attested by the County Court Clerk and bearing the seal of the county under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted, by Sullivan County, Tennessee." All prior official zoning maps or any significant parts, thereof, shall be preserved, together with all available records pertaining to their adoption or amendment.

2-103 **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES** - When uncertainty exists as to the boundaries of districts shown on the official zoning map, the following shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

F. Boundaries indicated as parallel to or extensions of features indicated in Subparts "A" through "E", of this section, above, shall be so construed. The scale of map shall determine distances not specifically indicated on the official zoning map.

G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subparts "A" through "F", of this section, above, the Board of Appeals shall interpret the district boundaries.

H. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this resolution, the Board of Appeals may permit the extension of the regulations for either portion of the lot not to exceed one hundred (100) feet beyond the district line into the remaining portion of the lot.

2-104 **APPLICATION OF DISTRICT REGULATIONS** - The regulations set by this resolution within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.

B. No Building or Other Structure Shall Hereafter Be Erected or Altered:
1. To exceed the height or bulk.
2. To accommodate or house a greater number of families.
3. To occupy a greater percentage of lot area.
4. To have narrower or smaller rear yards, front yards, side yards, or other open space.

C. Except as may be expressly permitted within planned unit developments, no part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this resolution, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this resolution shall meet at least the minimum requirements established by this resolution.

2-105 **ZONING CHANGES IN EVENT OF CHANGES TO GROWTH PLAN** - In the event that future changes or modifications are made to the adopted Urban Growth Plan for Sullivan County that result in territory being reallocated from one classification to another (i.e. From Rural Areas (RA) to Planned Growth Areas (PGA)) the zoning districts shall be re-evaluated and adjusted based upon a detailed evaluation to be conducted by the Planning Commission responsible for planning jurisdiction within the affected area.

2-106 ZONING DISTRICT CHANGES

2-106.1 **Zoning District Changes by Application** - In the event an individual property owner petitions his property to be rezoned, the property owner shall file an application and fee with the Planning & Zoning Department of Sullivan County. The staff shall review the application and make a formal recommendation regarding approval or disapproval for such petition, to the Sullivan County Regional Planning Commission if the property falls outside any municipal Urban Growth Boundary and within Sullivan County. In the event the subject property falls within a municipal Urban Growth Boundary of a Regional Planning Commission, such application shall be forwarded to the appropriate Regional Planning Commission for recommendation. The applicant shall post an official rezoning sign, as obtained by the Planning & Zoning Department, in clear view from the nearest adjacent public road. The Planning & Zoning Staff shall post a public notice, specifying the public hearing, the location and rezoning request, within the newspaper of general circulation. The notice shall be posted a minimum of fifteen (15) days prior to the County Commission public hearing. The applicable Planning Commission shall hold a public meeting on the request and forward a recommendation for either approval or disapproval to the County Commission. The applicant shall declare whether or not he will forward his petition on appeal to the County Commission for final decision at the scheduled public hearing. The County Commission will have the final authority to consider rezoning petitions outside of any municipal city limits, pursuant to the TCA 13-7-105. The zoning district changes shall become effective immediately upon approval by the County Commission.

The fee schedule for such request shall be adopted by the County Commission and posted in the Planning & Zoning Department of Sullivan County. A separate fee shall be required for each parcel of property unless multiple parcels in common ownership are requested under one rezoning classification request. Therefore, if an entire community, subdivision or other continuous parcels have been requested for one rezoning application, only one fee shall be assessed if the properties are owned by one individual or entity.

2-106.2 **Zoning District Changes by Plan** - Whereby countywide plan or community plan, the applicable Regional Planning Commission may recommend changes to the zoning districts after local citizen input and public hearing pursuant to the TCA 13-7-105. Any rezoning plan shall require a thirty (30) - day public notice in the local newspaper of general circulation. The County Commission shall hold a public hearing and reading for final approval of the zoning plan. The zoning district changes shall become effective immediately upon approval by the County Commission.

ARTICLE III

AGRICULTURAL AND RESIDENTIAL DISTRICT REGULATIONS

SECTIONS

3-101 PURPOSES OF DISTRICTS
3-102 USES AND STRUCTURES
3-103 BULK REGULATIONS
3-104 SUPPLEMENTAL DESIGN PROVISIONS

3-101 PURPOSES OF DISTRICTS

3-101.1 General Purposes - The agricultural and residential districts established in this resolution are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To preserve adequate space for agricultural and forestry activities and to minimize conflicts between these activities and various non-farm activities by limiting the encroachment of non-farm activities into areas utilized for agriculture and forestry.

2. To provide sufficient space in appropriate locations for residential developments and to adequately protect these areas from other incompatible activities that may adversely impact the residential environment.

3. To permit improved movement on the public ways and to effectively utilize existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly all through traffic, in residential areas.

4. To protect these areas against flood, fire, explosions, toxic and noxious matter, radiation, and other dangers, and against offensive matter, heat, glare, humidity, and other objectionable influences.

5. To protect these areas against congestion by regulating the density of population, the intensity of activity, and the bulk of buildings in relation to the surrounding land and to one another.

6. To require the provision of open space in residential areas in order to open up residential areas to light and air, to provide open areas for rest and recreation, and to reduce the potential conflict between agricultural and residential activities and thereby to provide a more desirable living environment.

7. To provide appropriate space for public and private educational, religious, recreational, and similar facilities, and public utilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences, and to coordinate the intensity of residential land use with the appropriate community facilities.

8. To promote the most desirable use of land and direction of building development in accordance with a well considered general plan to promote stability of agricultural activities and residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the county's tax revenues.

3-101.2 District Purposes

1. A-2, Rural Agricultural and Open Space District - These districts are designed to provide suitable areas for the growing of crops, animal husbandry, dairying, forestry, and other similar intensive agricultural activities, which generally occur and characterize rural rather than urban areas. These districts are designed, furthermore, to provide for very low-density residential development generally on unsubdivided tracts of land. In addition, these districts may include areas and lands not suited by reason of soil, geologic, topographic, or other limitations for development. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts, or that are benefited by an open environment without creating objectionable or undesirable influences that are incompatible with a rural environment. These districts shall also provide for single-family residential detached dwellings, residential accessory structures, customary home occupations and farm employee housing situated on the large farming tracts (see definition in Appendix).

2. A-1, General Agricultural/Estate Residential District - These districts are designed to provide suitable areas for single-family residential development located within a rural environment. Residential development consists of single-family residential detached dwellings and such other structures as are customary and accessory, thereto. The intensity of development permitted within these districts is directly related to the availability of public water service. These districts also include community facilities, public utilities, and open uses, which serve specifically the residents of these districts, or that are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. These districts provide for large tracts and open space on the fringe of higher densities of residential development and may transition into other districts as development evolves. These districts shall also provide for customary home occupations and farm employee housing situated on the large farming tracts (see definition in Appendix) and singlewide mobile homes on individual parcels.

3. AR, Agricultural, Rural Residential and Light Recreational District - These districts are designed to provide suitable areas for single-family residential development located within a rural environment. Residential development consists of single-family residential detached dwellings, manufactured homes located on individual parcels, and other such structures as are accessory thereto. The intensity of development permitted within these districts is directly related to the availability of public water and transportations systems available to serve these lots. These districts also may include community facilities, public utilities, open space uses which serve specifically the residents of these districts or that are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. These districts may also provide for light recreational uses, such as camping, aquatic and other outdoor recreational activities defined herein, where adequate public infrastructure is available as reviewed and approved by the Regional Planning Commission. These districts shall also provide for customary home occupations and farm employee housing situated on the large farming tracts (see definition in Appendix).

4. R-1, Low Density/Single-Family Residential District - These districts are designed to provide suitable areas for single-family residential development within areas that are predominantly characterized by low-density suburban residential development. Residential development consists of single-family detached dwellings and other accessory structures thereto. The intensity of development permitted within these districts is directly related to the availability of public water service and sewage capabilities. These districts also include community facilities, public utilities, and open uses that serve specifically the residents of these districts, or that are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. It is the express purpose of this resolution to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that uses on review, with supplementary provision and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this resolution.

5. R-2, & R-2A, Medium Density Residential District - These districts are designed to provide suitable areas for single-family and two-family residential development within areas that are predominantly characterized by low-density suburban residential development. Residential development will consist of single-family, manufactured homes on individual lots and/or duplex dwellings and other structures that are accessory thereto. These districts also include community facilities, public utilities, and open uses, which serve specifically the residents of these districts, or that, are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. Further, it is the intent of this resolution that these districts be located so that the provision of appropriate urban services can be physically and economically facilitated, and so that provision is made for the orderly expansion and maintenance of urban residential development throughout the planning jurisdiction. It is the express purpose of this resolution to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that

uses on review, with supplemental provisions and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this resolution.

6. R-3A (High-Density/Multi-Family) & R-3B (High-Density/Single-Family i.e. Condo, Patio Homes)- These districts are designed to provide suitable areas for single-family, two-family and multi-family residential development within areas that are predominantly located at crossroads and along major transportation routes. Residential developments will consist of single-family, two-family dwellings, patio homes, condominiums, townhouses or apartments, and other structures as are accessory, thereto. **Rental dwellings, such as apartments, duplexes, and townhouses shall not be permitted in R-3B districts.** The R-3A district allows for high-density single-family and/or multi-family dwellings whereas the R-3B district only allows for high-density single-family dwellings. The level of water service available within these districts shall be adequate to provide potable water and fire protection. These districts also include community facilities, public utilities, and open uses that serve specifically the residents of these districts without creating objectionable or undesirable influences upon residential developments. Further, it is the intent of this resolution that these districts be located so that the provision of appropriate urban services can be physically and economically facilitated. It is the express purpose of this resolution to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that uses on review, with supplemental provisions, and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this resolution.

7. R-3, Manufactured Residential Dwelling Park District - The R-3 Districts are designed to provide suitable areas for manufactured home parks where sufficient urban facilities, **specifically including public water service, public sewer service and transportation systems adequate to accommodate these higher population densities** as specifically reviewed and approved by the Regional Planning Commission. These districts also permit community facilities, public utilities, and open uses which serve specifically the residents of these districts, or that are benefited by an urban residential environment without creating objectionable or undesirable influences upon residential developments. It is the express purpose of this resolution to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that uses on review, supplemental provisions, and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this resolution.

8. OSRD, Open Space Residential Development – Alternative Residential Development Provisions - The purpose of these provisions is to provide for alternative techniques in developing residential neighborhoods where land is not otherwise suitable for conventional development patterns. The Planning Commission shall approve the concept during the subdivision platting approval process. These provisions shall not be considered a zoning classification or district in that the overall density of the particular residential zone shall be maintained and the permitted land uses shall not be altered. The OSRD development technique may be utilized in A-2, A-1, AR, R-1, R-2, R-2A, R-3A, R-3B or PUD districts only. The OSRD development technique shall be encouraged when there are steep slopes, wooded terrain, land prone to flooding or other sensitive topographical constraints to ensure protection thereof while not hindering residential growth. The OSRD development provisions shall provide for all other zoning restrictions applicable for that zone. The OSRD development technique may also be utilized for private or “gated communities,” however all private roads shall be approved during the platting process by the Regional Planning Commission pursuant to the applicable Subdivision Regulations.

3-102 USES AND STRUCTURES

3-102.1 General Provisions - Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Appendix B, of this resolution. The procedure for interpreting the classes and type of activities is provided in Appendix B, Section 101. TABLE 3-102A, presents a tabulation of uses and structures, which are classified as "principal permitted" (P), "permitted with supplemental provisions" (SUP), “Uses on Review” by the Regional Planning Commission (PC) or “special exception/conditional uses” (BZA) permitted by approval of the Board of Zoning Appeals.

3-102.2 Principal Permitted Uses, (P) - Principal permitted uses are permitted as a matter of right within the district indicated, subject to the general requirements and bulk regulations, such as parking, setbacks, height, lot coverage, et cetera, established for the district wherein the use is located.

3-102.3 Use Permitted with Supplemental Provisions, (SUP) - A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the Building Commissioner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 3-102A, may be allowed within the districts indicated. Supplemental Provisions for review are listed in Appendix B.

3-102.4 “Use on Review” by the Regional Planning Commission, (PC) - This category is concerned with any permitted use, which requires site plan approval from the Regional Planning Commission. Such uses may require additional regulations and restrictions to ensure compatibility with the surrounding existing land uses. Supplemental Provisions for review are listed in Appendix B.

3-102.5 Accessory Uses - In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth in Appendix B. Such accessory activities shall be controlled in the same manner as the principal activities within such type, except as otherwise, expressly provided in this resolution

3-102.6 Temporary Uses - The temporary uses and structures specified in Appendix B, as permissible within residential and agricultural districts may be permitted for the limited time periods indicated for each such use or activity.

3-102.7 Uses Not Permitted (X) - Any uses or structures not allowable as permitted uses, uses permitted with supplementary provisions, uses on review, temporary uses, accessory uses or conditional uses are prohibited within the various agricultural and residential districts.

3-102.8 Special Exception/Conditional Uses, (BZA) - Any use not specifically allowed as a permitted use, but may be approved as a special exception/conditional use after review and approval by the Board of Zoning Appeals (pursuant T.C.A. Title 13, Chapter 7, Section 109 (2)). The BZA shall hear and decide all such uses permitted by special exception, as so indicated in TABLE 3-102A, after a formal public hearing and with consideration to the development guidelines as stated herein (see Appendices). Upon approval for a special exception as granted by the Board of Zoning Appeals, the applicant shall then seek site plan approval pursuant to Article XII.

TABLE 3-102A
USES AND STRUCTURES ALLOWABLE WITHIN AGRICULTURAL AND RESIDENTIAL DISTRICTS

PRINCIPAL USES AND ACTIVITIES	A-2/A-1	AR	R-1	R-2/R-2A	R-3A/R-3B	R-3
I. RESIDENTIAL ACTIVITIES						
A. Permanent						
1. Single-Family Detached Dwelling	P	P	P	P	P/P	P
2. Duplex Dwelling	X	X	X	P	P/X	X
3. Single-Family Attached (condominiums)	X	X	X	X	SUP*	SUP
4. Multi-Family (apartments and townhouses)	X	X	X	X	SUP/X	SUP
5. Manufactured Home (singlewide mobile home)	Farm /P	P	X	P/X	X	P
6. Manufactured Home Park (2 or more singlewides)	X	X	X	X	X	PC
7. Open Space Residential Development Plan	PC	PC	PC	PC	PC	X
**** R-3B Districts shall only allow single-family attached and single-family detached homes on an owner-occupied basis.***						
B. Semi-Transient						
1. Lodging House	X	X	X	X	X	X
2. Boarding House	X	X	X	X	X	X
II. COMMUNITY FACILITIES ACTIVITIES						
A. Administrative Services						
1. Government Offices	P	P	P	P	P	P
2. Civil Defense Facilities	P	P	P	P	P	P
3. Court Buildings	P	P	P	P	P	P
4. Fire Department Facilities	P	P	P	P	P	P
5. Police Department Facilities	P	P	P	P	P	P
6. Post Offices	P	P	P	P	P	P
B. Child Care Facilities (5 or more unrelated children)						
1. Childcare Center (13+)	X	X	X	X	PC	X
2. Family Childcare Home (5-7 -see accessory use)	SUP	SUP	X	SUP	SUP	X
3. Group Childcare Home (8-12, accessory use)	SUP	SUP	X	X	X	X
C. Community Assembly						
1. Civic, Social, Fraternal and Philanthropic	SUP	SUP	BZA	BZA	BZA	SUP
2. Private (nonprofit) Clubs, Lodges, Meeting Halls, and Community Centers	SUP	SUP	BZA	BZA	BZA	SUP
D. Cultural and Recreational Services *(This section applies to all community services and centers that are non-commercial and owned/managed by a governmental entity, religious organization or other Not-For-Profit agency/HOA) Amended 09 17 07*						
1. Art Galleries (noncommercial)	X	X	X	X	X	X
2. Athletic Associations	X	X	X	X	X	X
3. Libraries (Public/Non-Profit)	P	P	P	P	P	X
4. Museums	P	P	X	X	X	X
5. Parks, Playgrounds and Playfields	SUP	SUP	SUP	SUP	SUP	X
6. Planetariums and Aquariums	SUP	SUP	X	X	X	X
7. Recreation Centers and Gymnasiums (nonprofit)	X	P	X	X	X	X
8. Camp Grounds (non-profit)	X	PC	X	X	X	X
9. Swimming Pools, Marinas, and Beaches	SUP	SUP	SUP	SUP	SUP	SUP
10. Yachting Clubs (private)	SUP	SUP	SUP	SUP	SUP	X
11.Zoological and Botanical Gardens (noncommercial)	SUP	SUP	SUP	X	X	X
12. Other Light Recreational Seasonal Uses	X/SUP	SUP	X	X	X	X
E. Educational Facilities						
1. Public, Parochial and Private Kindergartens, Primary and Secondary Schools	P	P	P	P	P	P

TABLE 3-102A (continued)
USES AND STRUCTURES ALLOWABLE WITHIN AGRICULTURAL AND RESIDENTIAL DISTRICTS

USES Cont.	A-2/A-1	AR	R-1	R-2/R-2A	R-3A/R-3B	R-3
F. Essential Public Transport, Utility and Communication						
1. Electrical and Gas Substations	P	P	P	P	P	P
2. Pumping Facilities for Water and Sewer Systems	P	P	P	P	P	P
3. Rights-of-Way for All Modes of Transportation	P	P	P	P	P	P
4. Sewage Collection Lines	P	P	P	P	P	P
G. Extensive Impact Facilities						
1. Airports, Air Cargo Terminals, Heliports, Helistops and Any Other Aeronautical Device	X/PC	PC	X	X	X	X
2. Electricity Generating Facilities	P	P	P	P	P	P
3. Garbage Dumps, Including Sanitary Landfills	X	X	X	X	X	X
4. Major Petroleum and Natural Gas Transmission Lines and Facilities	X	X	X	X	X	X
5. Marine Terminals	X	X	X	X	X	X
6. Military Bases and Reservations	X	X	X	X	X	X
7. Railroad, Bus and Transit Terminals	X	X	X	X	X	X
8. Railroad Yards and Other Transportation Equipment Marshaling and Storage Yards	X	X	X	X	X	X
9. Water and Sewage Treatment Plants	X	X	X	X	X	X
H. Health Care Facilities						
1. Center for Observation and Rehabilitation	X	X	X	X	X	X
2. Hospitals	X	X	X	X	X	X
3. Medical Clinics	X	X	X	X	X	X
I. Intermediate Impact Facilities						
1. Cemeteries, Columbariums and Mausoleums	P	P	P	P	P	P
2. Colleges, Junior Colleges and Universities (excluding for profit business & technical schools)	X	X	X	X	X	X
3. Marinas and Yacht Clubs (non-profit)	X	X	X	X	X	X
4. Electrical and Gas Substations	P	P	P	P	P	P
5. Golf Courses	PC	PC	PC	PC	PC	X
6. Major Mail Processing Centers	X	X	X	X	X	X
7. Radio, Telephone and Television Towers and Transmission Facilities	PC	PC	PC	PC	PC	PC
8. Water Storage Tanks and Facilities	P	P	P	P	P	P
J. Religious Assembly Facilities						
1. Chapels, Churches, Convents, Monasteries, Sanctuaries, Synagogues, Temples and other religious accessory facilities	SUP	SUP	SUP	SUP	SUP	SUP
III. Commercial/Recreational - Limited – *Amended 09 17 07*						
A. Group Assembly and Commercial Outdoor Recreational Facilities – Limited Uses						
1. Commerical Campgrounds – RVs, Cabins, Campsites	X	PC	X	X	X	X
2. Commercial Golf Courses and accessory uses	P	P	P	P	P	P
3. Commercial Boat Docks, Marinas, and Boat Rental	X	PC	X	X	X	X
B. Recreational Sport Shooting Range Facilities Indoor and Outdoor Amended *03/15/10*	X	PC	X	X	X	X

TABLE 3-102A (continued)
USES AND STRUCTURES ALLOWABLE WITHIN AGRICULTURAL AND RESIDENTIAL DISTRICTS

USES Cont.	**DISTRICTS**					
	A-2/A-1	**AR**	**R-1**	**R-2/R-2A**	**R-3A/R-3B**	**R-3**
K. Special Institutional Care Facilities						
1. Detention and/or Correctional Institutions	X	BZA	X	X	X	X
2. Drug and Alcohol Rehabilitation Facilities	X	BZA	X	X	X	X
3. Institutional Care Facilities (including all types of asylums for the psychotic or insane)	X	X	X	X	X	X
4. Half-way Houses (serving convicted felons and substance abusers)	X	X	X	X	X	X
L. Special Personal and Group Care Facilities						
1. Assisted Living Facilities for Elderly or Handicapped Persons	SUP	SUP	X	X	SUP	SUP
2. Convalescent Homes	SUP	SUP	X	X	X	X
3. Day Care Facilities for Elderly Persons	SUP	SUP	X	X	X	X
4. Family Care Facilities (5 to 7 unrelated adults)	SUP	SUP	X	SUP	SUP	SUP
5. Group Care Facilities (8 to 12 unrelated adults)	SUP	SUP	X	X	X	X
6. Nursing Homes	X	X	X	X	X	X
IV. AGRICULTURAL AND EXTRACTIVE ACTIVITIES						
A. Agriculture – General	P	P	P	P	P	P
B. Agriculture – Intensive	P	P	X	X	X	X
C. Agricultural Services						
1. Crop Drying, Storage and Processing Services	P	P	P	P	P	P
2. Crop Planting, Cultivation and Protection Services	P	P	P	P	P	P
3. Horticultural Services	P	P	P	P	P	P
4. Livery Stables and Horse Boarding Services	P	P	P	P	P	P
4. Soil Preparation Services	P	P	P	P	P	P
5. Veterinary Services for Livestock	P	P	X	X	X	X
D. Mining and Quarrying						
1. Borrow Pits Involving Soil Extraction and Off-Site Use	X	X	X	X	X	X
2. Chemical Fertilizer and Non-metallic Mineral Mining	X	X	X	X	X	X
3. Clay, Ceramic and Refractory Materials Mining	X	X	X	X	X	X
4. Coal Mining	X	X	X	X	X	X
5. Crude petroleum and Natural Gas Production	X	X	X	X	X	X
6. Metal Ore and Mineral Mining	X	X	X	X	X	X
7. Sand and Gravel Quarrying	X	X	X	X	X	X
8. Stone Quarrying	X	X	X	X	X	X
E. Plant and Forest Nurseries						
1. Forest Nursery	P	P	P	P	P	P
2. Landscape/Accessory Hardscape/Aquascape Business	P	P	X	X	X	X
3. Plant Nursery – Wholesale/Accessory Retail	P	P	P	P	P	P
4. Sod Farming	P	P	P	P	P	P

TABLE 3-102 (continued)
USES AND STRUCTURES ALLOWABLE WITHIN AGRICULTURAL AND RESIDENTIAL DISTRICTS

USES Cont.	DISTRICTS					
	A-2/A-1	AR	R-1	R-2/R-2A	R-3A/R-3B	R-3
ACCESSORY USES AND ACTIVITIES						
Accessory Apartment (residential attached addition to single-family home)	SUP	SUP	SUP	SUP	X	X
Accessory Cargo Shipping Containers (Adaptive Reuse of Steel)	X/BZA*	X	X	X	X	X
Accessory Forest Operations	PC	PC	X	X	X	X
Accessory Plant Raising and Animal Care	P	P	SUP	SUP	SUP	SUP
Bed and Breakfast Homestay (Home Occupation – 1 to 3 rooms)	BZA	BZA	X	X	BZA	X
Bed and Breakfast Inn (4 to 12 rooms)	BZA	BZA	X	X	BZA	X
Columbarium/Mausoleum	SUP	SUP	X	X	X	X
Farm Employee Housing	SUP	SUP	X	X	X	X
Family Child Care Facility (Major Home Occ./Accessory Use)	SUP	SUP	X	SUP	SUP	X
Group Child Care Facility (Major Home Occ./Accessory Use)	SUP	SUP	X	X	X	X
Home Occupations (Minor and Major) see appendix for SUP	SUP	SUP	SUP	SUP	SUP	SUP
In-Home Day Care (Minor Home Occupation – less than 4 unrelated children)	SUP	SUP	SUP	SUP	SUP	SUP
Off-Street Parking (depends on road classification and HOA's)	P	P	P	P	P	P
Parents Day Out	SUP	SUP	SUP	SUP	SUP	SUP
Private Recreation Facilities	P	P	P	P	P	P
Special Public Event on Private Property	BZA	BZA	BZA	BZA	X	X

KEY TO INTERPRETING USE CLASSIFICATIONS

X = Specifically not permitted. P = Use Permitted by Right Within the District. SUP = Principal Use Permitted with Supplemental Provisions.

BZA = Subject to approval by the Board of Zoning Appeals PC = subject to the Regional Planning Commission approval of site plan.

*** See Supplemental Design Guidelines in Appendix B-105.2 #7 as amended on 05/16/2011**

3-102.9 Restriction of Buildings Permitted on Residential Zone Lots - Only one (1) principal residential building and its customary accessory structures may be permitted on any zone lot, except as may otherwise be approved as follows:

1. As part of a complex of dwellings subject to the provisions of Subsections 3-104.1 or 3-104.3;
2. As part of an Open Space Residential Development or Planned Unit Development and/or;
3. If an additional principal residential building meets all of the applicable bulk regulations on its own to ensure future subdivision compatibility and accommodations.

3-103 BULK REGULATIONS

3-103.1 General - The minimum lot dimensions, maximum lot coverage, maximum density, minimum front, rear, interior and street side yards, maximum building heights and minimum separation between buildings on the same zone lot within any base agricultural or residential district shall be as indicated in TABLE 3-103A, (Bulk Regulations for Agricultural and Residential Districts), and the additional bulk regulations specified in this section. For certain uses, alternative bulk regulations, such as the Open Space Residential Development provisions, may be specified in this article or other articles of this zoning resolution.

3-103.2 Lot Area

1. Basic Requirement - Within the various agricultural and residential districts, the minimum horizontal area of a lot shall not be less than that indicated TABLE 3-103A, or in the case of multi-family dwellings situated on the same lot, that required by TABLE 3-103B.
2. 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 dwelling unit, lot width, building area, or other requirements of the zoning resolution are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose such as public utility stations, etc.

3-103.3 Lot Dimensions

1. Basic Requirement - No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the minimum dimensional requirements indicated in TABLE 3-103B, unless, otherwise, provided in the preliminary development plan of a planned unit development or OSRD plan as approved.

TABLE 3-103A
MINIMUM LOT SIZES FOR
AGRICULTURAL AND RESIDENTIAL DISTRICTS

ZONE DISTRICT	MINIMUM LOT SIZE
I. A-2, Rural Agricultural/Residential - Open Space Districts	
A. All Lots (1 dwelling unit per 2 acres)	2 acres
II. A-1, General Agricultural – Estate Residential Districts	
A. All Lots Served by Public Water Supply (1 dwelling unit per 20,000)	20,000 sq. ft.
B. All Lots Served by Private Water Supply – min. per dwelling	1 acre
III. AR – Agricultural/Residential/Light Recreation Districts – *Amended 09 17 07*	
A. Rural Residential/Recreational Lots Served by Public Water (1 dwelling unit/20,000)	20,000 sq. ft.
B. Residential Lots on Private Water Supply	1 acre
IV. R-1, Low Density Residential District (1 dwelling unit per lot size)	
A. Lots Served by Public Water Supply and Public Sewer	15,000 sq. ft.
B. Lots Served by Public Water Supply and Private Sewer (SSDS/septic)	20,000 sq. ft.
C. Lots Served by Private Water Supply and Private Sewer (SSDS/septic system)	1 acre per unit
V. R-2/R-2A, Medium Density Residential (1 dwelling unit per lot size)	
A. Lots Served by Public Water / Public Sewer (minimum size for first unit on sewer)	10,000 sq. ft.
B. Lots Served by Public Water Supply / Private Sewer (SSDS/septic) / (per unit)	20,000 sq. ft.
C. Lots Served by Private Water Supply/Private Sewer (SSDS/Septic (min. for each unit)	1 acre per unit
D. Additional Required Area for Multi-Family Served by Public Water Supply and Public Sewer (2nd and each additional unit)	7,500 sq. ft. per unit
VI. R-3A and R-3B Residential Districts	
A. Lots Served by Public Water /Public Sewer (minimum size for first unit)	7,500 sq. ft.
B. Lots Served by Public Water Supply and Private Sewer (SSDS/septic)/ (per unit)	20,000 sq. ft.
C. Lots Served by Private Water Supply and Private Sewer/Septic (min for each unit)	1 acre per unit
D. Additional Required Area for Multi-family or Planned Development Served by Public Water Supply and Public Sewer (2nd and each additional unit)	5,000 sq. ft per unit
VII. R-3, Manufactured Home Park - requires public water and public sewer	
A. All Lots (minimum park gross area)	3 acres
B. Individual Manufactured Dwelling Site (Mobile Home Pad)	See Article 3-104.2
NOTES: (1) In all residential and agricultural districts, the property owner has the right to utilize the Open Space Residential Development (OSRD) provisions as provided herein subject to a minimum acreage size of entire development. (2) The sizes of lots may be increased due to soil percolation/type regarding subsurface sewage disposal systems (SSDS also known as septic tank systems), by the Tennessee Department of Environment & Conservation, Division of Ground Water Protection – County Field Office. (3) Lots size requirements may vary for religious facilities and other non-residential uses, see Appendix B.	

2. Lot Width - The minimum lot width (measured at the building line) shall not be less than indicated in TABLE 3-103B, or, otherwise, specified in this resolution.

3. Lot Frontage - All lots shall conform to Article VIII, Section 8-101.4 of the General Operational Performance Standards.

4. Maximum Permitted Lot Coverage - The maximum zone lot coverage by all buildings, principal and accessory in these residential districts, shall not, except OSRD planned developments as provided in Subsection 3-104.3, exceed the percentage of the total area of the zone lot indicated in TABLE 3-103B. *(Amended August 15, 2005 – no lot coverage required for principal dwelling structures).*

3-103.4 Density Regulations (see above table)

(this section deleted upon the amendment for 3-103.6 Part 5 on July 21, 2008)

3-103.5 Height Regulations

1. Basic Requirements - The maximum permitted height for buildings shall not, except as provided in Subpart 2, of this section, exceed that set forth for the various districts in TABLE 3-103B.

2. General Exception to Height Regulations - The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, telecommunication towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Nor does this provision apply to barns, or other buildings and structures utilized for agricultural purposes and not intended for human occupancy.

3-103.6 Yard Regulations

1. Minimum Width or Depth - Yards having the minimum width or depth set forth for the various districts in TABLE 3-103B, shall be provided on all lots

2. Permitted Structures in Yards and Customary Residential Accessory Structures - In all agricultural and residential districts, the following shall not be considered obstructions when located within a required yard, except that these items shall comply with Subpart 3, of this section, (Obstructions Prohibited at Street Intersections).

   a. In Any Yard:
      - Arbors and trellises not attached to the principal structure or accessory structure.
      - Customary Residential Accessory Structures provided such structures comply with the following criteria:
        i. Structures placed in the rear yard behind the principal structure shall be setback a minimum of (8) eight feet from the sides and rear property line to avoid any utility and drainage easements (refer to survey or plat).
        ii. Structures placed in the side yard shall meet the minimum principal building setback requirements for that particular zone.
        iii. If in the opinion of the Building Commissioner the structure cannot be located in the rear or side yards due to topographical constraints pursuant to Article XII, the Building Commissioner may allow such structure to be placed in the front yard with minimum building setbacks applicable for that particular zone, as required for the principal structure.
        iv. The total maximum size of all accessory structures cannot exceed ten (10%) percent of the total parcel area or exceed 2000 square feet in total area; whichever is less *(amended on August 15, 2005)*.
        v. Prior to issuance of a permit, the property owner shall sign a statement affirming that the use of such structure is and will remain in compliance with the applicable zone.
        vi. All structures less than 120 square feet and not having a fixed base to the ground require no permit, shall adhere to the minimum setbacks and location as required above *(amended on 12/19/2011 to comply with the 2006 IRC).*
        vii. All structures, regardless of size or permit requirement, shall conform to the above setback and use restrictions.
      - Driveways subject to other specific provisions of this resolution related directly thereto.
      - Flagpoles having only one structural ground member.
      - Fountains.
      - Mailboxes.
      - Open terraces, including natural plant landscaping, not including decks (decks are subject to principal structure setbacks).
      - Pet enclosures less than one hundred (100) square feet.
      - Sculpture or other similar objects of art, which do not advertise any business or service.

- Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ashtrays, or light standards.
- Vehicular parking areas, unless, otherwise, specifically prohibited by applicable sections of this resolution.
- Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.
- Retaining walls, or fences not exceeding eight (8) feet in height measured from finish grade level and not roofed or structurally part of a building.

b. In Any Rear Yard: - There shall be a minimum setback requirement of (8) eight feet for the following structures and/or uses:
- Clothes Poles or clotheslines.
- Recreational equipment.
- Pools.

3. Obstructions Prohibited at Street Intersections - On a corner lot, no fence, wall, parking, sign, hedge, or other planting or structure that will materially obstruct vision between a height of three (3) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines (see illustration in Appendix C). In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding. The purpose of this clear vision of the corner is for vehicular traffic approaching the intersection.

4. Special Conditions Affecting Yards

a. Front Yards to be Measured from Street Rights-Of-Way - For the purposes of providing adequate space for the future widening of streets, safety for occupants of structures, vehicular glare and noise reduction and sight visibility for vehicular traffic, required front yards shall be determined by the rights-of-way as shown on the latest official major thoroughfare plan. For clarification, please consult with the Sullivan County Highway Commissioner and/or a representative from the Tennessee Department of Transportation (TDOT).

b. Rear Yard Setback for Double-Frontage Lots –The minimum required width of a rear yard abutting a street shall be the same as the front yard setback.

c. Special Yard Requirements for Corner Lots - The minimum required width of a side yard abutting a street shall be the same as the front yard requirements.

d. Special Provisions for Yard Setbacks on Lots-of-Record With Legal but Non-Conforming Dwelling -
▪ As approved by the Building Commissioner, any alteration, addition or construction of a dwelling on a lot-of-record ("Grandfathered In") shall extend no closer to the street which abuts the designated front yard than the average of the distances of the dwellings located within one hundred (100) feet on each side of the lot-of-record whereon the alteration, addition or construction is to occur.
▪ The average yard requirement shall not prohibit alterations or additions to an existing dwelling, which has irregular walls provided said alteration or addition extends no closer to the street or other property line than the existing closest wall to the street, side or rear property line.
▪ The BZA shall have jurisdiction to vary from this strict application upon property where such provision would create an undue hardship. (See Article XII, variance application).

5. One Principal Building – There shall be no more than one principal structure and its customary and incidental accessory structures on any lot or parcel of land, unless otherwise specifically permitted in this chapter or unless a development plan is approved by the Planning Commission as provided in this chapter. *(amended July 21, 2008).*

TABLE 3-103B
BULK REGULATIONS FOR AGRICULTURAL AND RESIDENTIAL DISTRICTS
(Item II Amended August 15, 2005 to delete lot coverage for principal building/dwelling)

	DISTRICT						
	A-2	A-1	AR	R-1	R-2/R-2A & for single-family detached in R-3A/R-3B#	R-3A/R-3B For multi-family or single-family attached#	R-3
II. Minimum Lot Width In Feet (Measured at the Building Setback Line)	100	80	80	80	60	60	80
III. Maximum Lot Coverage by the Principal Structure/Building (As a Percent of Lot Area)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
IV. Maximum Lot Coverage by the Accessory Structure*(%)	10%	10%	10%	10%	10%	10%	10%
V. Maximum Height for Residential Structures* (unless approved by the local fire department to be higher)	3 stories or 50 feet	3 stories or 50 feet	3 stories or 50 feet	3 stories or 50 feet	3 stories or 50 feet	3 stories or 50 feet	3 stories or 50 feet
VI. Minimum Yard Setbacks (In Feet)							
1. Front (50' front setback if on arterial road)	30	30	30	30	30	30**	30**
2. Side	30	12	12	12	10	20**	30**
3. Rear	30	30	30	30	20	30**	30**
4. Corner Side (additional road frontage)	30	30	30	30	20	30**	30**

NOTES:
*Setbacks Not Applicable to Agricultural Buildings and Structures
**See Section 4-104, for Provisions Applicable to Multi-Family Dwellings and/or Planned Developments and Manufactured Home Parks.
Other setbacks may be required per Supplemental Provisions on non-residential uses (see appendix)

Under the Open Space Residential Development alternative plan, the overall lot coverage of the principal building may be greater, the side and rear setbacks can be reduced and the lot size can be reduced, as long as the overall yield density of the entire master plan is no greater than that allowed under conventional densities for the applicable zoning district. Most other bulk requirements shall apply.

#Amendment to setbacks in high-density zones made on August 15, 2005 to differential between detached single-family lots and attached single or multi-family dwellings within a planned development. Greater setbacks required for attached dwellings, such as townhouses and apartment complexes.

3-104 SUPPLEMENTAL DESIGN PROVISIONS

3-104.1 Development Standards for Multi-Family Dwellings or Single-Family-Attached Dwellings (apartments, townhouse-patio, townhouse-apartment and/or condominium developments)

1. Purpose - The special provisions set forth herein are intended to provide design criteria for multi-family dwellings when located within two (2) or more buildings on a zone lot or portion of a zone lot. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning and Zoning Department review of the Site Plan required for all such development. Provided, however, that in any instance where this use is located within a planned unit development this requirement may be fulfilled by submission of the plans required by Article XII, Subsection 12-102.3.

2. Site Plan Required - A Site Plan containing the information required by the provisions of Article XII, Subsection 12-102.3, Subpart 2, shall be prepared and submitted to the Planning and Zoning Department for its review and approval.

3. Design Criteria, General - It is the intent that multi-family dwellings where they are permitted:
   a. May be appropriately intermingled with other types of housing;
   b. Shall not contain more than twelve (12) dwelling units per floor on a single unbroken frontage; and
   c. Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

4. Design Criteria, Detailed
   a. Each dwelling unit shall be provided with reasonable visual and acoustical privacy.
   b. Paved pedestrian walkways shall be provided for convenient and safe access to all living units from the streets, driveways, parking courts or garages and for convenient circulation and access to all facilities.
   c. The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features. Prior to any site clearing or development activity the developer shall submit a landscape plan along with the site development plan. Where necessary to provide both internal and external privacy and to screen out objectionable features such as noise or automobile lights, additional new plant material may be required.
   d. An adequate amenity package for occupants of the apartment shall be provided. The amenity package shall as a minimum include the following:
      (1) Exterior sitting areas. All such sites shall be suitably landscaped to enhance their intended function.
      (2) Play lots and/or playgrounds with a total minimum area of one hundred (100) square feet per bedroom. These areas shall be provided with playground equipment sufficient to meet the needs of children expected to reside within the complex. The individual pieces of playground equipment shall be specified on the site plan. All recreational equipment provided should be durable commercial grade equipment, which shall meet all Consumer Product Safety Commission Safety Guidelines, as well as the ASTM F1487-93, Public Use Playground Standard. Paved pedestrian walks linking individual buildings to the recreational facility shall serve the playground. Additional sitting areas may be substituted for playgrounds on a square foot for square foot basis when the development is planned for occupancy only by elderly adults.
      (3) Centralized refuse (garbage) disposal facilities are strongly recommended. All dumping cart/bins shall be opaquely screened by either wood or masonry and landscaped.
   f. All private drives, parking areas or other vehicular ways used for the common access for two (2) or more residences shall be suitably paved and maintained as a condition approval of the project.

5. Required Improvements - The following shall be required:
   a. Internal Streets
      (1) In general, internal drives or travel ways located within any multi-family development shall be privately constructed and maintained. All such streets shall be paved with a dustless surface and meet the requirements of the Sullivan County Highway Department.
      (2) Within any multi-family development, all streets proposed for public dedication and maintenance shall be constructed to the pavement depth and design standards specified within the Subdivision Regulations of Sullivan County, Tennessee.
   b. Public Street Access
      (1) The minimum distance between access points along public street frontage, centerline-to-centerline shall be two hundred (200) feet.
      (2) The minimum distance between the centerline of an access point and the nearest curb line or street line of a public street intersection shall be sixty (60) feet.
   c. Service Buildings
      Service buildings housing laundry, sanitation or other facilities for use by the occupants shall be permanent structures complying with the applicable codes.

6. Parking Space and Traffic Circulation Requirements - Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall be generally located in close proximity to the dwelling units they are designed to serve. A minimum of two (2) parking spaces shall be provided for each dwelling unit. At least, one (1) parking space per dwelling unit shall be

located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use.

7. Open Space Requirements - Any common open space provided within a development of multi-family dwellings shall:
   a. Meet the requirements for quality and improvement established in ARTICLE III, Section 3-104.3, No. 6
   b. Be protected by covenants as outlined in ARTICLE III, Section 3-104.3 No. 5, which will insure the improvement and continued maintenance of all such properties.
   c. Serve as recreational area and open space only.

8. Yard and Building Spacing Requirements - Within any master planned development approved under the provisions of this section, the following (30) thirty-foot separation requirements shall apply to all multi-family buildings and single-family attached and detached units:
   a. For units located entirely within the interior of the site no yards as such are required, however, buildings shall be spaced according to the provisions of ARTICLE III, Subsection 3-103.6, Subpart 5, (Separation of Buildings on Same Lot); this being a minimum of thirty (30) feet apart (except within a manufactured home park as approved).
   b. All buildings located along the periphery of the site shall be setback the minimum as required for the front yard, which is (30) thirty feet.
   c. A minimum buffer strip shall be installed and maintained along the sides and rear property lines.
   d. The minimum side yard setback for townhouse-patio homes shall be fifteen feet on one side with the adjacent lot side yard of fifteen feet for a total of thirty feet between buildings. The other side yards may be down to zero setback if the units are separated by a common party wall.

9. Availability of Public Services - All new high-density residential developments shall require access and connection to public water and public sewer prior to issuance of any building permits. Connection of services shall meet the requirements of the utility board and public sewer department as applicable. The easements, size and location of all service and main lines shall be illustrated on the site plan.

3-104.2 Development Standards for Manufactured Home Parks (Mobile Homes)

1. Purpose - The regulations contained herein are intended to apply to all manufactured home parks as defined by this ordinance.

2. Site Plan Required - It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the Site Plan required for all such development by ARTICLE XII, Subsection 12-102.3 (Subpart 2). Provided, however, that in any instance where this use is located within a planned unit development this requirement may be fulfilled by submission of the plans required by that section.

3. Design Criteria, General
   a. No part of a manufactured home development shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well-being of residents and for the management and maintenance of the development.
   b. Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home or of the site or lot on which such dwelling is located, provided that all provisions of this ordinance pertaining to such use are met.

4. Minimum Development Size and Density Permitted - No manufactured home development shall be approved which contains less than three (3) acres in area with a maximum density of no more than five (5) manufactured homes per acre (approximately 8,700 sq. ft. gross area per dwelling or 1/20 of an acre). The setback and area coverage permitted within any manufactured home development shall be as specified in TABLE 3-103B.

5. Dimensional Requirements for Parks
   a. Landscaped buffer strips shall be required along the sides and rear property lines. A minimum thirty (30) foot setback shall be provided along the perimeter of the manufactured home park in addition to separation standards for individual manufactured homes.

b. Within the interior portions of the manufactured home park, no yards, except to meet the spacing standards of Subpart 6, of this section, (Spacing of Manufactured Homes and Site Coverage), are required.
c. No building or structure erected or stationed in a manufactured home park shall have a height greater than three (3) stories.

6. Spacing of Manufactured Homes and Site Coverage - The spacing and coverage sites are the minimum amount to ensure that proper light and air circulation, noise and privacy, drainage and fire control are afforded to the residents of the park.
   a. Manufactured homes shall be so harbored on each space such that there shall be at least a twenty (20) foot clearance between mobile homes, including any porches or additions. No manufactured home shall be located closer than twenty (20) feet from any other building or structure within the park.
   b. There shall be a minimum distance of ten (10) feet between the nearest edge of any manufactured home and the nearest edge of the access easement of an abutting access/internal driveway within the park.

7. The Individual Manufactured Home Site
   a. The limits of each manufactured home site shall be marked on the ground by suitable means. Location and limits of an individual manufactured home site on the ground shall be the same as shown on approved plans. The minimum area of a manufactured home site shall be as required to meet other provisions of this section.
   b. The manufactured home stands shall be improved to provide adequate support for the placement and tie-down of the manufactured home.
   c. Each manufactured home site shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum outdoor living area shall not be less than two hundred (200) square feet of contiguous area.
   d. Reserve space for tenant storage shall be provided for each manufactured home at the rear of the manufactured home space, unless other accommodations are approved for such.
   e. All manufactured homes shall be anchored and supported so as to meet or exceed the standards established in Part 4, "Manufactured Home Anchoring", of Section 68-126, Tennessee Code Annotated.

8. Utilities and Site Amenities
   a. Each manufactured home site shall be provided with a connection to a public sanitary sewer as approved by the local sewer provider.
   b. Each manufactured home site shall be provided with a connection to a public water supply as approved by the local utility district provider. The easement, size and location of all main and service lines shall be illustrated on the site plan.
   c. Solid waste collection stands shall be provided for waste containers for each manufactured home. Any central waste container shall be screened from view by use of wood or masonry material and shall be maintained in such manner as to meet county health requirements. Such disposal area shall not be located within thirty (30) feet of any natural water body, floodplain, or drainage area to avoid pollution of the streams.
   d. Service buildings housing sanitation and laundry facilities shall be permanent structures complying with all applicable ordinances, statutes, and regulations, including provisions governing electrical installations, and plumbing and sanitation systems.
   e. Play lots and/or playgrounds with a total minimum area of three hundred (300) square feet for every five (5) manufactured homes shall be provided. Paved pedestrian walks linking individual buildings to the recreational area shall serve the playground. Sitting areas with a minimum area of one hundred (100) feet per mobile home space may be substituted for playgrounds when the development is planned for adults only.
   f. **Every manufactured home shall be accessible to fire apparatus by way of access roadways with all-weather driving surfaces of not less than twenty-four (24) feet of unobstructed width**, with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen feet-six inches (13’ 6”). The required width of the access roadway shall not be obstructed in any manner, including the parking of vehicles. No parking signs or other appropriate notice, or approved obstructions inhibiting parking, may be required and if installed shall be maintained. No barriers may be placed within the development, which would prevent emergency vehicles from pulling around or between buildings.

9. Public Street Access - Entrances to manufactured home parks **shall have direct connections to a public street** and shall be designed to allow free movement of traffic on the adjacent public street. Safe and convenient vehicular access shall be provided from abutting public streets to each manufactured home lot.

a. Pavement Widths Shall Be as Follows:

Collector Street		**One-Way Minor Street**		
with no parking	**22 ft.**		**with no parking**	**12 ft.**
with on-street parking	**36 ft.**		**with on-street parking**	**28 ft.**
Minor Street				
with no parking	**20 ft.**			
with on-street parking	**34 ft.**			

b. Street Construction Standards - In general, internal drives or travel ways located within any manufactured home park shall be privately constructed and maintained. All private drives, parking areas or other vehicular ways used for the common access for two (2) or more residences shall be suitably paved and maintained as a condition approval of the project. Any public streets located within a manufactured home park shall meet the construction specifications set forth in the subdivision regulations.

c. Access and circulation shall adequately provide for fire fighting and other emergency equipment, service deliveries, furniture moving vans and refuse collection. No barriers may be placed within the development, which would prevent emergency vehicles from pulling around or between buildings.

10. Site Development Standards - The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features to the maximum extent feasible. Prior to any site clearing or development activity the developer shall submit a landscape plan, which demonstrates compliance with the following:

a. Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes from erosion and shade to the home sites.

b. A landscaped buffer at least four (4) feet in height (at the time of installation) shall enclose the boundary of each mobile home park site. The buffer shall be constructed of a double, staggered row on ten (10) foot centers, of a year-round planting, such as conifer trees or other types of evergreens, which shall provide a dense foliage. The plantings shall be selected based upon mature height of not less than 10 feet, density, health and suitability with the soil and zone. A detail of the proposed buffer is to be presented with the master development plan. The aesthetic and protective nature of the proposed barrier shall be considered an integral element of the overall site design and shall be reviewed as part of the design review process.

11. Residential Accessory Structures – With written approval from the landowner, each tenant of the mobile home park may be permitted detached residential accessory structures so long as the structure(s) meets all other bulk regulations and site design standards as outlined above per Article 3-104.2 as well as the following limitations:

a. Each approved mobile home park space (lot within park) may have one detached carport no larger than 400 square feet and shall be setback at least ten (10) feet from the interior access road; thirty (30) feet from the property line and twenty (20) feet from adjacent homes, in order to satisfy the site design standards as required per Article 3-104.2;

b. Each approved mobile home park space (lot within park) may also have one additional detached residential storage building no larger than 120 square feet and shall also meet the same setbacks as stated above; and

c. In order to safeguard the open space and common play area set aside for the enjoyment of all mobile home park residents, no other individual residential accessory structures may be permitted within the mobile home park.

d. *Communal accessory structures*, such as laundry facilities, playground equipment, common mail box stations, gazebos, maintenance sheds or other amenities must be shown on the comprehensive development plan and shall be approved by the Sullivan County Regional Planning Commission *(amended on 12/19/2011 to permit Section 11 with landowner's consent).*

3-104.3 **Open Space Residential Development (OSRD)** - The purpose of this section is to provide a permissive voluntary alternative procedure to be utilized in the placement of single-family detached and attached dwellings and multi-family dwellings in the location of open spaces associated therewith. These provisions are intended to provide for variations in lot size, setbacks and open space requirements within the agricultural and residential districts (A-2, A-1, AR, R-1, R-2, R-2A, R-3A, R-3B or PUD). The density standards established for individual districts are to be maintained on an overall basis and thereby provide desirable and proper open air space, tree cover, recreation areas or scenic vistas; all with the intent of preserving the natural beauty of the area, while at the same time maintaining the necessary maximum population density limitations of the district in which this procedure may be permitted.

1. General Provisions - The provisions contained within this section are intended to provide a flexible procedure for locating dwellings upon sites. As such, the provisions do not constitute a use but an alternative procedure for the spacing of buildings and the use of open areas surrounding those buildings. It is necessary, however, that the purposes and intent of this resolution be assured and that proper light, air, and privacy be made available for each dwelling unit. In order to save costs on the installation of public improvements with road and utility extensions, the home sites shall be clustered together while property owners also enjoy the common ownership of open space.

   The Site Plan required in Subpart 2, of this section, is intended to provide not only an accurate statement of the development scheme proposed for each such development but an enforceable legal instrument whereby the Planning Commission and Planning & Zoning Department may be assured that the general purposes, standards, et cetera, contained in this resolution are being met.

2. Site Plan Required
   a. Contents - A Site Plan containing the information required by the provisions of ARTICLE XII, Subsection 12-102.3, Subpart 2, shall be prepared and submitted to the Planning Commission for its review and approval along with a sketch plat as required by the Subdivision Regulations. In addition to the information required to meet the provisions of Subsection 12-102.3, the site development plan shall show:
      (1) Topographic features, where the slope is 25% or greater, shall be preserved if feasible.
      (2) Location of any open space that is proposed to be held in common ownership.
      (3) Proposed ground coverage, general building footprint area, and heights of all multi-family buildings.
   b. Coordinated Review - Upon receipt of a site plan and sketch plat containing information as required above, the Planning Commission may:
      (1) Concurrently review the site plan and sketch plat;
      (2) Follow the final plat approval process pursuant to the Subdivision Regulations;
      (3) Jointly approve, approve with modification, or disapprove these documents; and
      (4) In the instance of approval, or approval with modification, transfer the site development plan to the Building Commissioner for enforcement.
   c. Enforcement - Upon approval of a Site Plan, the Building Commissioner shall note the boundary and extent of such development upon the Official Zoning Map and shall become responsible for enforcement of the plan. Only minimal adjustments involving the placement of any structure will be permitted once a site development plan has been approved. Any other change shall require submission of a proposed amendment to the approved plan.

3. Development Standards - The following standards and requirements shall apply to all developments subject to the provisions of this section:

   a. General Standards for Development - In the interest of promoting the most appropriate and economical use of the land while assuring that the character of the district is maintained, the Planning Commission in its review of a proposed development shall consider the following:
      (1) The protection of the character, property values, privacy and other characteristics of the surrounding neighborhood;
      (2) The provision for surface drainage control, sewage disposal, and water supply, recreation and traffic control; and
      (3) The preservation and protection of existing trees, ground cover, topsoil, streams, rock outcroppings and scenic or historic sites from dangers and damage caused by excessive and poorly planned grading for streets and building sites.

b. Availability of Public Utilities - An accessible, adequate, safe and potable supply of water shall be provided in each open space residential development on trunk lines not less than six (6) inches.

c. Minimum Development Size - No Open Space Residential Development shall be approved that contains less than ten (10) building sites and still achieve the overall yield density of the underlying base zoning. Upon site plan approval from the Planning Commission, the plan may be reduced to no less than five (5) building sites; however no building permit shall be issued until the homeowners' association agreement and plat is recorded with the county register of deeds.

d. Permitted Density - The density permitted is intended to be within the range of that permitted within more typical developments offering no common open space. The maximum number of dwelling units permitted shall be computed as follows:
   (1) From the gross acreage available within the development shall be subtracted: any portion of the site, which is within the public rights-of-way and/or private rights-of-way for streets (existing and proposed) and all floodway zones as determined by the best available certified data.
   (2) The area remaining after the above adjustments shall be divided by the minimum lot area per dwelling unit for the applicable zone district in which the dwelling unit is located. For developments located in more than one zoning district the density shall be computed separately for that portion of the development lying within each district. No developmental density may be transferred across zoning district boundaries. Such calculations shall be included in a table on the site plan. This shall be the assumed yield plan maximizing the basic density as required by traditional development practices.

e. Minimum Lot Area to Determine Yield Plan - In order to calculate the yield plan, the density shall be calculated subject to the bulk regulations of the base zoning district. A conceptual yield plan shall be submitted as part of the development plan, in order to verify the density restriction. The lots sizes then may be reduced utilizing the cluster design scheme, as long as the dwelling site upholds minimum standards for light and air circulation, surface water absorption, privacy and security. All structures shall be a minimum of 30 thirty feet separation. Patio homes shall also have fifteen (15) feet single side yard abutting another fifteen (15) feet side yard. All residential accessory structures shall be within the rear yard a minimum of eight (8) feet from the property line. Within all developments approved under the provisions of this section the minimum area of lots designated as residential building sites shall be as follows:
   (1) Lots Served By Public Sewer - The minimum size of lots served by public sewer shall be determined by the Planning Commission so as to secure minimum building sites and uphold the purposes of the ordinance stated herein. Under no circumstances shall a lot under the OSRD plan be less than 7,500 square feet.
   (2) Lots Served by On-Site Sewage Disposal Systems - Where public sewer is not available, no lot or housing site may be created which is less than that approved by the county field office of the Tennessee Department of Environment and Conservation (TDEC) – Division of Ground Water Protection and all septic fields for each dwelling unit shall be located within the area of fee simple ownership of said dwelling unit, unless specifically approved by the local TDEC office and an easement is noted on the plat. Under no circumstances shall a lot under the OSRD plan be less than 10,000 square feet.

TABLE 3-104A
DENSITY AND BULK CRITERIA FOR LOTS WITHIN APPROVED VARIABLE LOT RESIDENTIAL DEVELOPMENTS (OSRD)

ZONE DISTRICT	**A-2**	**A-1**	**AR**	**R-1**	**R-2/R-2A**	**R-3A/R-3B**
Minimum Lot Frontage Per Dwelling ***(waiver from Article VIII regardless of lot size)***						**Required for multifamily projects***
On Publicly Maintained Street *or Approved Privately Maintained Street pursuant to Subdivision Regulations*	25	25	25	25	25	25/50*
On Public or Private cul-de-sac *(per Subd. Regs.)*	25	25	25	25	25	25/50*

f. Access to Dwellings - Access and circulation shall adequately provide for fire fighting, other emergency equipment, service deliveries, furniture moving vans and refuse collection.

g. Pedestrian Circulation - Any constructed pedestrian circulation system and its related walkways shall be insulated as completely as possible from the street system in order to provide separation of pedestrian underpasses or overpasses in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

4. Environmental Protection - The following provisions shall apply within all developments approved under the authority of this section.

a. Tree Preservation - No clearing of trees greater than six (6) inches in caliper shall be permitted on any portion of the common ownership amenity area that lies beyond the building envelope designated upon said plat.

b. Slope Protection - It shall be the general policy of the Planning Commission to discourage alteration of slopes where the natural topography exceeds twenty-five (25) percent. In particular, toe cuts along the base of such slopes shall be avoided.

c. Erosion and Sediment Control Plan - A plan of erosion and sediment controls shall be approved for all developments subject to the provisions of this section. Such plan shall be instituted at the time construction activity or land alteration is begun and shall remain in effective operation throughout the entire period when land development is taking place. All plans shall be reviewed by the Planning Department and coordinated with the Tennessee Department of Environment and Conservation, Environmental Assistance Center, Johnson City Field Office prior to any grading or construction.

5. Open Space Requirements - Any common open space provided within any development created pursuant to the provisions of this section shall:

a. Meet the requirements for quality and improvement established in ARTICLE VIII, of this resolution.
b. Be protected by covenants, which in the opinion of the County Attorney are adequate to insure the improvement and continued maintenance of all such properties.
c. Serve as recreational area, farming, and/or open space only.
d. Be transferred to a private maintenance trust, homeowner association, condominium association or dedicated to the county as part of the Southern Appalachian Greenways Alliance master plan, at a time and in the manner specified by the Planning Commission as a condition of approval of the project.
e. Provide for a minimum of twenty-five (25) percent of the site to remain as common open space and not to be further subdivided in the future.

6. Uses Permitted on Greenway/Common Open Space Lands

a. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
b. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
c. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than ¾ of the minimum required open space land.
d. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
e. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Commission.
f. Active noncommercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway/open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 100 feet of abutting properties. Parking facilities for the common land shall also be

permitted, and they shall generally be gravel-surfaced or other pervious concrete surfaced, unlighted, and property drained; provide safe ingress and egress; and contain no more than ten parking spaces.

g. Golf courses may constitute up to half of the minimum required open space land but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within the 50 percent minimum open space requirement; their parking and access ways may be paved and lighted.

h. Water supply and sewage disposal systems (field beds, duplicate area only) and stormwater detention areas designed, landscaped, and available for use as an integral part of the open space plan.

i. Easements for drainage, access, sewer or water lines, or other public purposes;

j. Aboveground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land, unless approved by the Planning Commission.

7. Required Open Space

For each parent tract of land subject to these provisions, a minimum of twenty-five (25) percent of the gross land area shall be reserved as open common space. All floodway zones shall not be calculated as part of such requirement but may be incorporated into the open space area held in common ownership.

ARTICLE IV

COMMERCIAL DISTRICT REGULATIONS

SECTIONS

4-101 PURPOSES OF COMMERCIAL DISTRICTS
4-102 USES AND STRUCTURES
4-103 BULK REGULATIONS

4-101 Purposes of Commercial Districts

4-101.1 General Purposes - The commercial districts established by this resolution are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.

2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.

3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.

4. To provide sufficient and appropriate space, and in particular sufficient area, to meet the needs of the area's expected future need for modern, planned commercial floor space, including the need for off-street parking space in areas where a large proportion of customers come by automobile, and to encourage the tendency of commercial establishments to concentrate in integrated planned developments, to the mutual advantage of both consumers and merchants.

5. To provide sufficient space in appropriate locations for commercial districts to satisfy specific functional needs of the area, and in particular the need for medical services, and the needs of the general public traveling along major thoroughfares.

6. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.

7 To promote the most desirable use of land and direction of building development in accord with a well considered plan, to promote stability of commercial development, to strengthen the economic base of the area, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings.

4-101.2 Purposes of Commercial Districts

1. PBD-3, Planned Corridor Business District - This district is designed to provide adequate space in appropriate locations for uses, which serve the needs of the motoring public. Transient sleeping accommodations, entertainment and amusement, retail and wholesale trade, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or uses necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize building in proximate residential districts. Appropriate locations for this district are near major transportation interchanges in clustered development patterns, and **not patterns of "strip commercial development" extending in a continuous manner along major traffic arteries.** It is the express purpose of this zoning classification to ensure that adequate infrastructure, accessibility and buffering between residential and agricultural land uses are in place to promote the highest and best use of the corridor while protecting the existing abutting land uses. This district is designed to serve a regional area along major corridors of the county as links to the cities, while providing a limited scope of services. Such services should be compatible with each other as well, within each development. This district is designed to promote the clustering of developments along major routes through the use of access streets or interior roads while providing adequate buffering between existing abutting residential and agricultural land uses.

2. PBD/SC, Planned Business and/or Shopping Center District - This district is designed to provide adequate space along major arterial and collector roads, while serving the needs of the motoring public. This district is compatible with the Planned Corridor Business District in all aspects yet offers a broader scope of uses permitted. This district is designed to promote the clustering of developments along major routes through the use of access streets or interior roads while providing adequate buffering between existing abutting residential and agricultural land uses. Community facilities and utilities necessary to serve these districts, or uses necessary for the general community welfare are also permitted. The previous zoning code had a separate category for the Shopping Center District; however the setbacks and development standards were the same and the uses were very similar. These districts have been combined for simplicity.

3. B-4, Arterial Business Service District - This district is designed to provide adequate space in appropriate locations for uses, which serve the needs of the motoring public, as well as, the local community. Transient sleeping accommodations, entertainment and amusement, retail and wholesale trade, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or uses necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize building in proximate residential districts. It is the express purpose of this zoning classification to ensure that adequate infrastructure, accessibility and buffering between residential and agricultural land uses are in place to promote the highest and best use of the district while protecting the existing abutting land uses. This district is designed to serve the larger commuting area while providing a limited but compatible scope of services. New B-4 districts should be a continuation of existing commercial centers along arterial routes.

4. B-3, General Business Service District - This district is designed to provide for a wide range of commercial uses concerned with retail trade and consumer services; amusement and entertainment establishments; automotive and vehicular service establishments; transient sleeping accommodations; drive-in stores; eating and drinking places, financial institutions; and offices. The uses in this district service a broad market spectrum and, therefore, ease of automotive access is a requirement. However, it is not intended that this district permit uses, which generate large volumes of truck traffic. Community facilities and utilities necessary to serve these districts, or uses necessary for the general community welfare are also permitted. Appropriate open space between commercial and agricultural or residential areas is required. New B-3 districts should be located near or be contiguous with existing commercial districts along arterial or major collector routes.

5. B-2, Central Blountville Business District – This district is designed to provide adequate space in appropriate locations for a limited range of local business activities that are generally compatible with proximate residential activities. The bulk regulations are designed, in part, to achieve compatibility with surrounding residential activities and to encourage the continued use and preservation of existing buildings of downtown Blountville. Community facilities and utilities necessary to serve this district, or uses necessary for the general community welfare are also permitted. The bulk regulations are established to provide for maximum compatibility between the limited business activity in this district and adjacent residential land uses. Where possible, mixed uses of residential and business should be encouraged and preserved to ensure economic sustainability of the *downtown Blountville district*. The use of industrial, regional commercial and wholesale developments should be prohibited from this district. This

district should be restricted to the downtown area of historic Blountville as the bulk area regulations regarding setbacks, lot sizes, and other design elements are unique to the original plan and not typical in other commercial developments.

6. B-1, Convenience Neighborhood Business District - These districts are intended to provide locations for retail and personal service operations serving a limited market area and engaged in the retail sale of goods and/or services from the site of frequently and recurring needs for personal consumption or household use. The permitted establishments are those which provide for regular local shopping and which, therefore, are visited frequently by customers in the near vicinity. Community facilities and utilities necessary to serve these districts, or uses necessary for the general community welfare are also permitted. These districts may occur along and at the intersection of arterial and community collector streets, characteristically are small, and are widely distributed throughout the community for convenient accessibility. **It is expressly intended that these districts be limited in gross land area and building bulk so as to maintain compatibility with the surrounding residential environment**. The bulk regulations are established to provide for maximum compatibility between the commercial activity in these districts and adjacent residential activity. The establishment of a new district of this nature must be preceded by the development of residential areas capable of supporting the proposed activities, be in a historically recognized community center, or as a transitional zone between residential areas and existing higher commercial zones. New B-1 districts should not be located within established residential subdivisions unless it is part of an approved Planned Unit Development wherein mixed uses are encouraged.

4-102 USES AND STRUCTURES

4-102.1 General Provisions - Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in the Appendix B, of this resolution. The procedure for interpreting the classes and type of activities is provided in ARTICLE IV, Section 4-101. TABLE 4-102A, presents a tabulation of uses and structures, which are classified as "principal permitted" (P), "permitted with supplemental provisions" (SUP), permitted upon review by the Planning Commission (PC), or “special exception/conditional use” (BZA) as permitted upon review by the Board of Zoning Appeals uses within the various commercial districts. The supplemental design provisions with which SUP, PC and BZA uses and activities are required to comply appear in Appendix B, Section B-104 (Supplemental Use Regulations).

4-102.2 Principal Permitted Uses, (P) - Principal permitted uses are permitted as a matter of right within the district indicated, subject to the general requirements established for the district wherein the use is located. Such requirements shall be accurately illustrated on a site plan as prepared by a licensed surveyor or engineer.

4-102.3. Use Permitted with Supplemental Provisions, (SUP) - A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the Building Commissioner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 4-102A, may be allowed within the districts indicated. Such requirements shall be accurately illustrated on a site plan as prepared by a licensed surveyor or engineer.

4-102.4 “Use on Review” by the Planning Commission, (PC) - A use or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district may require site plan approval by the Regional Planning Commission, pursuant Article XII site plan requirements. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval through a site plan, by the Planning Commission. Only those uses and structures so indicated in TABLE 4-102A, may be allowed within the districts indicated.

4-102.5 Special Exception/Conditional Uses, (BZA) - A use permitted only upon approval as a special exception to the zoning district for the individual property requested, as approved at a public hearing by the Board of Zoning Appeals (pursuant T.C.A. Title 13, Chapter 7, Section 109 (2)). The BZA shall hear and decide all such uses permitted by special exception, as so indicated in TABLE 4-102A, after a formal public hearing and with consideration to the design guidelines as stated herein (see Appendices). Upon approval for a special exception as granted by the Board of Zoning Appeals, the applicant shall then seek site plan approval from the Planning Commission prior to issuance of the building permit. Any use not permitted by right (P) or (SUP), through approval from the Planning Commission (PC), or as a special exception through the BZA and not specifically prohibited may request a special exception through the Board of Zoning Appeals.

4-102.6 **Accessory Uses** - In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth for such use in Appendix B, Section B-105. Such accessory activities shall be controlled in the same manner as the principal activities within such type, except as otherwise, expressly provided in this resolution.

4-102.7 **Temporary Uses** - The temporary uses and structures specified in Appendix B, Section B-106, as permissible within commercial districts may be permitted for the limited time periods indicated for each such use or activity.

4-102.8 **Uses Not Permitted (X)** - Any uses or structures not allowable as permitted uses, uses on review, temporary uses or accessory uses are prohibited within the various commercial districts.

TABLE 4-102A
USES AND STRUCTURES ALLOWABLE
WITHIN MIXED USE AND COMMERCIAL DISTRICTS

----------DISTRICTS----------	PBD-3	PBD/ SC	B-4	B-3	B-2	B-1
I. Residential Activities						
A. Permanent						
1. Single Family Dwelling	X	X	X	P	P	P
2. Duplex Dwelling	PC	PC	P	P	X	P
3. Multi-Family Dwelling	PC	PC	SUP	SUP	**X**	X
4. Single-Family Flats on 2nd story & above within mixed-use	PC	PC	SUP	SUP	SUP	SUP
B. Semi-Transient						
1. Lodging House	X	X	P	P	X	X
2. Boarding House	X	X	P	P	X	X
II. COMMUNITY FACILITY ACTIVITIES						
A. Administrative Services	PC	PC	SUP	SUP	SUP	SUP
B. Child Care Facilities	PC	PC	SUP	SUP	SUP	SUP
C. Community Assembly	PC	PC	SUP	SUP	SUP	SUP
D. Cultural and Recreational Facilities	PC	PC	SUP	SUP	SUP	PC
E. Educational Facilities	PC	PC	SUP	SUP	SUP	SUP
F. Essential Public Transport, Communication & Utility	PC	PC	SUP	SUP	SUP	SUP
G. Extensive Impact Facilities	X	X	X	X	X	X
H. Health Care Facilities	PC	PC	SUP	SUP	SUP	SUP
I. Intermediate Impact Facilities - all permitted except 1& 2 as follows	PC	PC	SUP	SUP	SUP	SUP
1. Transmission Facilities	PC	PC	PC	PC	PC	PC
2. Funeral Homes and Crematoriums	X	SUP	SUP	X	X	X
J. Religious Facilities	PC	PC	SUP	SUP	SUP	SUP
K. Special Institutional Care Facilities	BZA	BZA	X	X	X	X
L. Special Personal and Group Care Facilities	PC	PC	SUP	X	X	X
M. Waste Disposal Operations	X	X	X	X	X	X

----------DISTRICTS----------	PBD-3	PBD/ SC	B-4	B-3	B-2	B-1
III. COMMERCIAL ACTIVITIES – *Amended 09 17 07*						
A. Adult Entertainment Establishments	X	X	X	X	X	X
B. Animal Care and Veterinary Services	PC	PC	SUP	SUP	SUP	SUP
C. Automotive Parking – open lots only in B-2 and B-1, no public garages or parking structures	PC	PC	P	P	P *	P*
D. Automotive and Marine Craft Sales and Accessory Services	PC	PC	P	P	X	X
E. Automotive Body and Repair Shops	X	PC	X	P	X	X
F. Auto Towing and temporary storage	X	X	X	SUP	X	X
G. Banking, Financial, Insurance and Real Estate Services	PC	PC	P	P	P	P
H. Convenience Retail Sales and Services	PC	PC	SUP	SUP	SUP	SUP
I. Entertainment and Amusement Services - Limited	PC	PC	SUP	SUP	SUP	X
J. General Business and Communications	PC	PC	P	P	P	X
K. General Retail Trade	PC	PC	P	P	P	X
L. Group Assembly and Commercial Outdoor Recreation	PC	PC	SUP	SUP	SUP	X
M. Outdoor Material and Equipment Sales and Repair	PC	PC	P	P	X	X
N. Professional Services – Medical	PC	PC	P	P	P	P
O. Professional Services – Non-medical/Professional Offices	PC	PC	P	P	P	P
P. Restaurant, Full Service	PC	PC	P	P	P	X
Q. Restaurant, Fast Food	PC	PC	P	P	X	X
R. Scrap Operations/junk yards	X	X	X	X	X	X
S. Self-Storage/Mini-Warehouse Facilities	PC	PC	P	P	X	X
T. Transient Habitation	PC	PC	PC	X	X	X
U. Warehousing, Goods, Transport, and Storage	X	PC	X	X	X	X
V. Wholesale Sales	PC	PC	P	P	X	X
W. Indoor Sport Shooting Range Facilities *amended on 3/15/10*	PC	PC	PC	PC	X	X
IV. MANUFACTURING ACTIVITIES						
A. Manufacturing – Limited	PC	PC	SUP	SUP	X	X
V. AGRICULTURAL AND EXTRACTIVE ACTIVITIES						
A. Agricultural – General	P	P	P	P	P	P
B. Agricultural – Intensive	PC	PC	PC	PC	PC	PC
C. Agricultural Services	P	P	P	P	P	P
D. Plant and Forest Nurseries	PC	PC	PC	PC	PC	PC
VI. ACCESSORY ACTIVITIES						
A. Commercial Accessory Storage – Enclosed (residential accessory structures permitted where residential land uses are permitted)	X	PC	X	P	X	X
B. Accessory Day Care within business ctr.	PC	PC	SUP	SUP	SUP	SUP
C. Administrative Office	PC	PC	SUP	SUP	SUP	SUP
D. Bed and Breakfast Inn	PC	PC	PC	PC	PC	PC
E. Columbarium/Mausoleum	SUP	SUP	SUP	SUP	SUP	SUP
F. Operation of a Cafeteria	PC	PC	PC	PC	X	X
G. Parents Day Out	SUP	SUP	SUP	SUP	SUP	SUP
H. Production for Retail Sale	PC	PC	SUP	SUP	SUP	X
I. Residential Occupancy *(approved administratively – amended 09 17 07)*	P	P	SUP	SUP	P	P
J. Special Public Event on Private Property	BZA	BZA	BZA	BZA	SUP	BZA

KEY TO INTERPRETING USE CLASSIFICATIONS

BZA = Special Exception of Use with Approval from Board of Zoning Appeals
P = Use Permitted by Right Within the District
SUP = Principal Use Permitted with Supplemental Provisions
PC = Subject to Review and Approval by the Planning Commission
X – Not permitted

4-103 BULK REGULATIONS

4-103.1 **General** - The minimum lot dimensions, maximum lot coverage, minimum front, rear, interior and street side yards, maximum building heights and minimum separation between buildings on the same zone lot within any base commercial district shall be as indicated in TABLE 4-103A, (Bulk Regulations for Commercial Districts), and the additional bulk regulations specified in this section. For certain uses, alternative bulk regulations may be specified in this section or other sections of this zoning resolution. Bulk regulations for planned unit development (PUD) overlay districts shall be as specified in ARTICLE IV. Within B-2 and B-1 where residential dwellings are permitted, the density shall be the same as R-3 but the setbacks and other bulk regulations shall be the same as the zoned commercial district.

4-103.2 **Lot Dimensions** - No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the following minimum dimensional requirements, unless otherwise provided in the preliminary development plan of a planned unit development.

TABLE 4-103A
BULK REGULATIONS FOR COMMERCIAL DISTRICTS

Note: building line means the minimum building setback line (MBS) or area contained after calculating the minimum setbacks for the district	**DISTRICTS**					
	PBD-3	**PBD/SC**	**B-4**	**B-3**	**B-2**	**B-1**
I. MAXIMUM LOT COVERAGE BY ALL BUILDINGS - (As a % of Total Lot Area)	N/A	N/A	N/A	N/A	N/A	N/A
II. MINIMUM ZONE LOT REQUIREMENTS						
A. Area (in Square Feet) *(amended August 15, 2005)*	10,000	10,000	10,000	10,000	10,000	10,000
B. Width (in Feet, Measured at the Building Line)	100	100	100	100	100	100
III. MAXIMUM HEIGHT is 55 feet or 2 stories, whichever is less (unless approved by the local fire dept. or State Fire Marshall)	2 stories	2 stories	2 stories	2 stories	2 stories	2 stories
IV. MINIMUM YARD REQUIREMENTS (in Feet)						
1. Front	50	50	40	30	N/A	30
2. Side	25*	25*	30*	30*	N/A	30*
3. Rear	25	25	30	30	N/A	30
4. Corner Side (additional street frontage)	50	50	40	30	N/A	30
5. Front and Corner Side on Arterial Road	50	50	40	30	N/A	30
NOTES: See Subsection 4-103.4, Subpart 6, for Special Yard and Setback Requirements Along Residential and Agricultural District Boundaries, buffering requirements, et cetera. * Commercial side yard setback requirements may be reduced, on one side yard if contiguous with existing commercial or manufacturing districts, only if the front and rear provides access for emergency purposes.						

1. Lot Area
   a. Minimum Area - Within the various commercial districts, the minimum horizontal area of a lot shall not be less than that indicated in TABLE 4-103A, (Bulk Regulations for Commercial Districts), or as may be otherwise specified in this resolution (TABLE 3-103A for residential land uses).
   b. 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 width, building area, or other requirements of the zoning resolution are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

2. Lot Width - The minimum lot width (measured at the building line) shall not be less than indicated in TABLE 4-103A, or otherwise specified in this resolution (TABLE 3-103A.

3. Lot Frontage - All lots shall conform to Article VIII, Section 8-101.3 of the General Operational Performance Standards.

4. Maximum Permitted Lot Coverage – ## As indicated in TABLE 4-103A, all commercial buildings shall be allowed on 100% of the remaining property after **all** setbacks, sewage disposal areas, parking requirements, retention ponds if required, and buffer strips have been met per all bulk regulations herein set forth (*amended on August 15, 2005).*

4-103.3 Height Regulations

1. Basic Requirements - The maximum permitted height for buildings shall not, except as provided in Subpart 2, of this section, below, exceed that set forth for the various commercial districts in TABLE 4-103A.

2. General Exception to Height Regulations - The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

4-103.4 Yard Regulations

1. Permitted Obstructions in Required Yards - In all commercial districts, the following shall not be considered obstructions when located within a required yard except that items shall comply with Subsection 4-103.6 (Obstructions Prohibited at Street Intersections).
   a. Freestanding Arbors and trellises.
   b. Driveways subject to other specific provisions of this resolution related directly thereto.
   c. Flagpoles, having only one structural ground member.
   d. Fountains.
   e. Mailboxes.
   f. Open terraces, including natural plant landscaping.
   g. Sculpture or other similar objects of art.
   h. Street furniture such as, but not limited to benches, drinking fountains, trash receptacles, ashtrays, or light standards.
   i. Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.
   j. Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

2. Measurement of Yard Width - In all commercial districts, the width or depth of a yard shall be measured perpendicular to lot lines.

3. Dimension of Yards - Except as otherwise provided herein, in all commercial districts yards of such dimensions as set forth in TABLE 4-103A, shall be provided for all activities.

4. Accessory Off-Street Parking in Required Yards - Accessory off-street parking may be permitted within the required yards of commercial districts only to the extent set forth below. Within any area where permitted such parking areas shall: Be properly maintained and have no obstructions thereon, except as permitted by Subpart 1, of this section, and shall not obstruct the visibility triangle as required by Subsection 4-103.6 (Obstructions Prohibited at Street Intersections). In the case where buffering is required, no parking, driveways, solid waste receptacles, loading or unloading zones shall be allowed within a required buffer. Furthermore, off-street parking facilities shall comply with Subsection 6b and 6c below (also stated in Section 8.107)

5. Special Provisions for Through Lots - In all commercial districts no rear yard is required for a through lot. In lieu thereof a front yard shall be required for each frontage.

6. Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Line of Zone Lot in Any Residential or Agricultural District
   In all commercial districts, along such portion of the boundary of a commercial district, which coincides with a lot line of a zone lot in any residential or agricultural district the following yard provisions shall apply. Except as required to meet the provisions of Subpart b, of this section, the open space may be utilized for parking.

a. Special Front Setback - Regardless of the front yard provisions established for any commercial district (except B-2), no building located on any zone lot adjacent to any residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot whereon the commercial activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the commercial district.

b. Buffer Strip - Along all portions of the boundary of any commercial zone lot where such lot abuts or is contiguous to a side or rear yard of any residential or agricultural zone lot without an intervening public street, an open area, unobstructed from the ground to the sky, shall be provided within the commercial district. Upon review by the Planning Commission, Board of Zoning Appeals or the Building Commissioner, fencing may be required in addition to or in lieu of plantings based upon site conditions and topography. Such fence shall be at least six (6) feet high and constructed of a solid opaque material such as masonry or wood. Refer to Section 8-107.1 for detailed requirements.

c. Vegetative Green Strip - On all new construction or reconstruction (infill) a vegetative green strip shall be required along the parking lot edge fronting along all public roads and alleys to assist in the absorption of sheet flow from stormwater. See Section 8-107.2 for standards.

7. Sidewalk Planning in Business Districts - The construction of new or extension of existing pedestrian sidewalks shall be required in the Business Districts (B-1, B-2, PUD) upon review and approval of the required site plan for new development, redevelopment or substantial improvements to the site. The sidewalks shall be constructed according to the standards of the Tennessee Department of Transportation. Where possible, within the B-2 district, the paving material shall match or compliment the existing sidewalks within the area, subject to any adopted design guidelines of the zone.

4-103.5 Separation of Buildings on Same Lot - In all commercial districts where more than one (1) principal building may be located upon a single lot, the minimum distance between such buildings shall be thirty (30) feet, unless firewalls are contructed to meet the requirements of the State Fire Marshall, except for self-service/mini-warehouse facilties – see Section 4-103.7.

4-103.6 Obstructions Prohibited at Street Intersections - On a corner lot, no fence, wall, parking, sign, hedge, or other planting or structure that will materially obstruct vision between a height of three (3) feet and six (6) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet in distance from the intersection of the street lines and measured along said street lines. In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding. The purpose of this clear corner zone is for the visibility of approaching vehicular traffic.

4-103.7 Supplemental Design Standards for the Construction of Self-Service/Mini-Warehouse Storage Facilities – In all commercial districts where allowed, the self-storage or mini-warehouse storage facitilties shall adhere to the following design standards:

1. All storage buildings shall be contructed no taller than 20 feet in total height in order to maintain fire protection and give flexibility to building separation;
2. All principal buildings shall be set no closer than 15 feet apart;
3. All driving aisles shall be a minimum of 15 feet wide for one-way traffic and 24 feet wide for two-way traffic;
4. All building openings shall be completely accessible for emergency vehicle, moving vans, and other typical vehicles utilizing the site;
5. All driveway connections to the public road(s) shall be paved to a minimum from the r-o-w/property line to the building setback line (30 to 50 feet from r-o-w) pursuant to the parking and paving standards contained herein; however the aisles between the storage buildings and any overflow outside storage yards shall be maintained with 1 to 2 inch gravel stone;
6. All facilities shall be well lighted and fenced in for security purposes;
7. All other site plan requirements such as signage and drainage improvement plans shall be required;
8. No outside storage of inoperable vehicles or other items considered junk shall be permitted. (Approved 09 17 07)

ARTICLE V

MANUFACTURING DISTRICT REGULATIONS

SECTIONS

5-101 PURPOSES OF MANUFACTURING DISTRICTS
5-102 USES AND STRUCTURES
5-103 BULK REGULATIONS
5-104 SUPPLEMENTAL PROVISIONS

5-101 PURPOSES OF MANUFACTURING DISTRICTS

5-101.1 General Purposes

The manufacturing districts established by this resolution are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations, to meet the needs of the area for all types of distributive, manufacturing and related activities, with due allowance for the need for choice of suitable sites.

2. To protect distributive, manufacturing and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provide that appropriate space needs for distributive and manufacturing activities are available by prohibiting the use of such space for residential purposes.

3. To encourage manufacturing development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this resolution restricts the emission of such nuisances, without regard to the manufacturing products and processes involved.

4. To protect adjacent agricultural, residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of manufacturing and related activities, by restricting those manufacturing activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this resolution restricts the emission of such nuisances, without regard to the manufacturing products or processes involved.

5. To protect manufacturing activities and related developments against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.

6. To promote the most desirable use of land and direction of building development, to promote stability of manufacturing and related development, to strengthen the economic base of the area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the County's tax revenues.

7. To protect adjacent residential and commercial districts from any negative impacts attributable to sites devoted to manufacturing activities.

5-101.2 District Purposes

1. PMD-2 Planned General Manufacturing District - This class of district is intended to provide space for manufacturing activities within the county. By reason of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics these activities require locations relatively well segregated from non-manufacturing uses. Except as specified in Appendix B, Subsection B-105.2, Subpart 9, (Residential Occupancy in Connection with Nonresidential Activity), new residential activities are excluded. Commercial establishments and community facilities, which provide needed services for industry and are complementary thereto, are permitted. All new developments in this district shall require Planning Commission approval to ensure compatibility with the surrounding land uses and/or adequate buffering to neighboring properties. This class of district shall require adequate infrastructure to support any possible uses allowed within the district provisions. This district is designed to promoted the clustering of developments along major routes or within industrial complexes while providing internal access roads to ease of the motoring public and heavy vehicles.

2. PMD-1 Planned Light Manufacturing District - This class of district is intended to provide space for a wide range of manufacturing and related uses, which conform to a high level of performance criteria and have the least objectionable characteristics. These districts may provide a buffer between other districts and other manufacturing activities, which have more objectionable influences. Except as specified in Appendix B, Subsection B-105.2, Subpart 9, (Residential Occupancy in Connection with Nonresidential Activity), new residential activities are excluded. Community facilities and commercial establishments, which provide needed services for industry and are complementary thereto, are permitted. All new developments in this district shall require Planning Commission approval to ensure compatibility with the surrounding land uses and/or adequate buffering to neighboring properties. This class of district shall require adequate infrastructure to support any possible uses allowed within the district provisions. This district is designed to promoted the clustering of developments along major routes or within industrial complexes while providing internal access roads to ease of the motoring public and heavy vehicles.

3. M-2 Heavy Manufacturing District - This class of district is intended to provide suitable areas for intense, potentially noxious and/or dangerous manufacturing operations, including open land operations. It is specifically intended that all newly created districts be so located as to prevent possible negative impact upon adjoining uses and the environment. To this end, these districts are to be protected from encroachment by other activities. All new M-2 districts shall not be located wherein recognized environmentally sensitive lands exist unless all applicable permits are obtained prior to consideration of zone, to ensure environmentally sustainable practices can be achieved.

4. M-1 Light Manufacturing District - This class of district is intended to provide space for the types of manufacturing activities, which by reason of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from non-manufacturing uses. Except as specified in Appendix B, Subsection B-105.2, Subpart 9, (Residential Occupancy in Connection with Nonresidential Activity), new residential activities are excluded. Commercial establishments and community facilities, which provide needed services for industry and are complementary thereto, are permitted. All new M-1 districts should be located along arterial or major collector routes and near existing commercial or manufacturing centers.

5-102 USES AND STRUCTURES

5-102.1 General Provisions - Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Appendix B, of this resolution. The procedure for interpreting the classes and type of activities is provided in Appendix B, Section B-101. TABLE 5-102A, presents a tabulation of uses and structures, which are classified as "principal permitted" (P), "permitted with supplemental provisions" (SUP), “uses on review” (PC), or “special exception/conditional uses” (BZA) allowed upon approval by the Board of Zoning Appeals. The supplemental design provisions with which (SUP) (BZA) and (PC) uses and activities are required to comply, appear in Appendix B, Section B-104, (Supplemental Use Regulations).

5-102.2 Principal Permitted Uses, (P) - Principal permitted uses are allowed as a matter of right within the district indicated, subject to the general requirements established for the district wherein the use is located. Such requirements shall be accurately illustrated on a site plan as prepared by a Tennessee licensed surveyor and/or engineer, prior to issuance of a building permit.

5-102.3 **Use Permitted with Supplemental Provisions, (SUP)** - A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the Building Commissioner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 5-102A, may be allowed within the districts indicated. Such requirements shall be accurately illustrated on a site plan as prepared by a Tennessee licensed surveyor and/or engineer, prior to issuance of a building permit.

5-102.4 **Planning Commission "Use on Review", (PC)** - A use or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district shall require site plan approval by the Regional Planning Commission. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval through a site plan, by the Planning Commission. Only those uses and structures so indicated in TABLE 5-102A, may be allowed within the districts indicated. Such requirements shall be accurately illustrated on a site plan as prepared by a Tennessee licensed surveyor and/or engineer, prior to issuance of a building permit.

5-102.5 **Special Exception Uses/Conditional Use, (BZA)** - A use permitted only upon approval as a special exception to the zoning district for the individual property requested, as approved at a public hearing by the Board of Zoning Appeals (pursuant T.C.A. Title 13, Chapter 7, Section 109 (2)). The BZA shall hear and decide all such uses permitted by special exception, as so indicated in TABLE 5-102A, after a formal public hearing and with consideration to the design guidelines as stated herein (see Appendices). Upon approval for a special exception as granted by the Board of Zoning Appeals, the applicant shall then seek site plan approval from the Planning Commission prior to issuance of the building permit. Such requirements shall be accurately illustrated on a site plan as prepared by a Tennessee licensed surveyor and/or engineer, prior to issuance of a building permit.

5-102.5 **Accessory Uses** - In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth in Appendix B, Section B-105. Such accessory activities shall be controlled in the same manner as the principal activities within such type, except as otherwise, expressly provided in this resolution

5-102.6 **Temporary Uses** - The temporary uses and structures specified in Appendix B, Section B-106, as permissible within residential districts may be permitted for the limited time periods indicated for each such use or activity.

5-102.7 **Uses Not Permitted (X)** - Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various agricultural and residential districts.

TABLE 5-102A
USES AND STRUCTURES
ALLOWABLE WITHIN MANUFACTURING DISTRICTS

	PMD-2	PMD-1	M-2	M-1
I. MANUFACTURING ACTIVITIES				
A. Manufacturing – Limited	PC	PC	SUP	SUP
B. Manufacturing – General	PC	PC	SUP	SUP
C. Manufacturing - Basic Industry	PC	PC	SUP	SUP
D. Manufacturing – Hazardous	PC	X	SUP	X
II. COMMERCIAL ACTIVITIES				
A. Adult Entertainment Establishments	X	X	O/PC	X
B. Animal Care and Veterinary Services	PC	PC	SUP	SUP
C. Automotive Parking	PC	PC	SUP	SUP
D. Automotive & Marine Craft, Sales, Services & Repairs	PC	PC	SUP	SUP
E. Auto Towing/Automobile Wrecking Yard	SUP	X	SUP	X
F. Outside Materials, Equipment Sales, Service and Repair	PC	PC	SUP	SUP
G. Scrap Operations/Salvage/Junkyards	BZA	X	BZA	X
H. Self-Storage/Mini-Warhouse Storage Facilities	PC	PC	P	P
I. Warehousing, Goods Transport and Storage	PC	PC	SUP	SUP

J. Wholesale Sales	PC	PC	SUP	SUP
Cont.	**PMD-2**	**PMD-1**	**M-2**	**M-1**
K. Commercial/Recreational – Limited Outdoor and Indoor Sport Shooting Ranges *(amended on 03/15/10)*	PC	PC	PC	PC
III. COMMUNITY FACILITY ACTIVITIES				
A. Administrative Services *	PC	PC	SUP	SUP *
B. Child Care Facilities, any type	SUP	SUP	SUP	SUP
C. Community Assembly	X	X	X	X
D. Essential Public Transport, Communication and Utility Service	SUP	SUP	SUP	SUP
E. Extensive Impact Facilities	SUP	X	SUP	X
F. Intermediate Impact Facilities (Transmission Facilities – PC approval)	SUP	SUP	SUP	SUP
G. Religious Facilities	X	X	X	X
H. Special Institutional Care Facilities	X	BZA	X	BZA
I. Waste Disposal Operations	PC	X	SUP	X
J. Substance Abuse Medical Clinics (*amended on 11/15/2010)*	X	X	BZA	X
IV. AGRICULTURAL AND EXTRACTIVE ACTIVITIES				
A. Agricultural – General	P	P	P	P
B. Agricultural – Intensive	PC	PC	PC	PC
C. Agricultural Services	P	P	P	P
D. Plant and Forest Nurseries	PC	PC	PC	PC
V. ACCESSORY ACTIVITIES				
A. Accessory Storage – Enclosed Structure	PC	PC	SUP	SUP
B. Accessory Child Care	PC	PC	SUP	SUP
C. Administrative Office	PC	PC	SUP	SUP
D. Operation of Cafeteria	PC	PC	PC	PC
E. Outdoor Storage	PC	PC	SUP	SUP
F. Production for Retail Sale	X	X	X	X
G. Residential Occupancy (*approved administratively - Amended 09 17 07)*	P	P	X	P

KEY TO INTERPRETING USE CLASSIFICATIONS

P = Indicates Permitted Use.

SUP = Indicates Use Permitted with Supplemental Provisions.

PC = Indicates Permitted Use on Site Plan Review by the Planning Commission.

O = Indicates Use Allowable within Special Overlay District
(See Article VIII, Section 8-401, ADULT ENTERTAINMENT DISTRICTS)

BZA = Special Exception of Use after Approval of the Board of Zoning Appeals

NOTES:

(1) See Section 5-104.

*Approved ***Alternative Training Facilities*** – Use of Cargo Shipping Containers for Administrative Services (PC approved with Supplemental Design Guidelines in Appendix B-104.6 Subpart 1D) *amended on May 17, 2010.*

5-103 BULK REGULATIONS

5-103.1 **General** - The minimum lot dimensions, maximum lot coverage, minimum front, rear, interior and street side yards, maximum building heights and minimum separation between buildings on the same zone lot within any base manufacturing district shall be as indicated in TABLE 5-103A, (Bulk Regulations for Manufacturing Districts), and the additional bulk regulations specified in this section. For certain uses, alternative bulk regulations may be specified in this section or other sections of this zoning resolution.

5-103.2 **Lot Dimensions** - No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the following minimum dimensional requirements.

1. Lot Area
   a. Minimum Area

Within the various manufacturing districts, the minimum horizontal area of a lot shall not be less than that indicated in TABLE 5-103A, (Bulk Regulations for Manufacturing Districts), or as may be otherwise specified in this resolution.

TABLE 5.103A
BULK REGULATIONS FOR MANUFACTURING DISTRICTS

	----------DISTRICTS----------			
	PMD-2	**PMD-1**	**M-2**	**M-1**
I. MAXIMUM LOT COVERAGE BY ALL BUILDINGS (As Percent (%) of Total Lot Area *(See amendment##)*	N/A	N/A	N/A	N/A
II. Maximum Impermeable Surface Ratio (As % of Lot Area)	75	75	75	75
III. MINIMUM ZONE LOT REQUIREMENTS				
A. Area (In Square Feet)	80,000	80,000	80,000	43,560
B. Width (In Feet, Measured at Building Line)	200	200	200	100
IV. MAXIMUM HEIGHT – 55' (unless approved by the local fire department to be higher)	2 stories	2 stories	2 stories	2 stories
V. MINIMUM YARD REQUIREMENTS (in Feet)				
A. Front	50	50	50	50
B. Side	50	30	50	30
C. Rear	50	30	50	30
D. Corner Side (additional street frontage)	50	50	50	50
E. Front and Corner Side on Arterial or Collector Road)	50	50	50	50
NOTES: (1) The minimum lot size shall be as required to meet other provisions of this article. (2) See Subsection 5-103.4, Subpart 7 and 8-107. (3) See Subsection 5-103.4, Subpart 8, for special yard provisions applicable within M-2 Districts.				

b. 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 width, building area, or other requirements of the zoning resolution are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

2. Lot Width - The minimum lot width (measured at the building line) shall not be less than indicated in TABLE 5-103A, or otherwise specified in this resolution. The building line includes that point measured in both front and rear setbacks; otherwise known as the building envelope.

3. Lot Frontage - All lots shall have a minimum of fifty (50) feet of frontage on a publicly dedicated and maintained street, except that lots located along the terminus of a cul-de-sac shall have a minimum of thirty-five (35) feet of frontage.

4. Maximum Permitted Lot Coverage - As so indicated in TABLE 5-103A, all buildings shall be allowed on 100% of the remaining property after all setbacks, sewage disposal areas, parking requirements, retention ponds if required, and buffer strips have been met *(amended on August 15, 2005).*

5. Maximum Impermeable Surface Ratio - Within the various manufacturing district, the impermeable surface ratio, computed by dividing the impermeable surface area by the total lot area shall not exceed the percentage indicated in TABLE 5-103A.

5-103.3 Height Regulations

1. Basic Requirements - The maximum permitted height for buildings shall not, except as provided in Subpart 2, below, exceed that set forth for the various manufacturing districts in TABLE 5-103A.

2. General Exception to Height Regulations - The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

3. Obstructions Prohibited at Street Intersections - On a corner lot, no fence, wall, parking, sign, hedge, or other planting or structure that will materially obstruct vision between a height of three (3) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines (see illustration in Appendix C). In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding. The purpose of this clear vision of the corner is for vehicular traffic approaching the intersection.

5-103.4 Yard Regulations

1. Permitted Obstructions in Required Yards - In all manufacturing districts, the following shall not be considered obstructions when located within a required yard, except that items shall comply with ARTICLE V, Subsection 5-103.3, Subpart 3 (Obstructions Prohibited at Street Intersections).
   a. Arbors and trellises.
   b. Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.
   c. Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.
   d. Driveways subject to other specific provisions of this resolution related directly thereto.
   e. Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.
   f. Fire escapes or staircases, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.
   g. Flagpoles, having only on structural ground member.
   h. Fountains.
   i. Mailboxes.
   j. Open terraces, including natural plant landscaping.
   k. Retaining walls.
   l. Sculpture or other similar objects of art.
   m. Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ash rays, light standards, or directional signs.
   n. Vehicular parking areas, unless, otherwise, specifically prohibited by applicable sections of this resolution.
   o. Vents necessary for use of fallout shelter constructed below grade of such yards, but excluding all other parts of such shelters.
   p. Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

2. Measurement of Yard Width or Depth - In all manufacturing districts, the width or depth of a required yard shall be measured perpendicular to straight lot lines, or for curved lot lines, in such a way that such yard is bounded by the arc of a curve, which is concentric with such curved lot line.

3. Dimension of Yards - In all manufacturing districts, yards of such dimensions as set forth in TABLE 5-103A, shall be provided.

4. Uses of Required Yard Areas - The following uses may be made of yard areas, provided such uses are otherwise permissible in this district.
   a. Landscaping/Buffering/Reserve Green Strip - All required yard areas not occupied by driveways or sidewalks shall be devoted to landscaping. The minimum design standards are detailed in Section 8-1071.
   b. Driveways - Driveways may be located within any required yard; provided, however, that no more than fifty (50) percent of the area of any required yard may be used as a driveway.
   c. Sidewalks - Sidewalks shall be provided to accommodate pedestrian access from all guest and employee parking areas to associated entrances into facilities.
   d. Parking - Within all manufacturing districts any yard may be used for off-street parking or loading, except as provided in Subpart 7, of this section. However, such areas shall not be used for

storage or processing of any kind. No parking shall be permitted within ten (10) feet of the front property line and shall become a vegetative reserve green strip subject to minimum measures as required in Section 8-107.2.

5. Restrictions on Outside Storage Within Areas Other Than Required Yards - All approved storage areas shall be fenced and/or buffered as required by the Planning Commission or Building Commissioner.
   a. Outside Storage Within M-1 Districts - Within the M-1 Districts, no stocks, merchandise or material (with the exception of automobiles, tractors and other transportation, excavation or agriculturally related vehicles) may be stored upon any open area situated on any zone lot.
   b. Outside Storage Within All Other Districts - Within the PMD-1, PMD-2 and M-2 Districts, outside storage may be permitted only within areas designated for such upon an approved site plan.

6. Special Yard Provisions Applying Along Railroad Right-of-Way - In all manufacturing districts, other provisions of this resolution notwithstanding, along such portion of a rear or side lot line, which coincides, with a boundary of a railroad right-of-way, no rear or side yard shall be required. However a minimum of a ten (10) foot buffer strip and/or fencing shall be required for the safety of all visitors, customers, and employees. The buffered area shall not be required where direct service is necessary to access the rail system.

7. Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Lines of Zone Lots Located, in Any Residential or Agricultural District
   a. Required Yards Along District Boundaries Coincident with Side or Rear Lot Lines
      Within M-1, M-2, PMD-1 and PMD-2, manufacturing Districts, along such portion of the boundary of the manufacturing district which coincides with a side or rear lot line of a zone lot in any residential or agricultural district, an open area unobstructed from the ground to the sky shall be provided within the manufacturing district, with the exception of required buffering, landscaping and any natural feature. Within M-1 and PMD-1 Districts, this area shall be thirty (30) feet in width and within M-2 and PMD-2 Districts, the width shall be fifty (50) feet. No portion of this open area shall be used for off-street parking, off-street loading or for storage or processing of any kind. No portion of this open area shall be paved, graveled or used for parking or as an access way of any type.
   b. Special Front Setback - Regardless of the front yard provisions established for any manufacturing district, no building located on any zone lot adjacent to any residential or agricultural district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet, of the lot whereon the manufacturing activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the manufacturing district.
   c. Screening Along Residential/Agricultural District Boundaries - To assist in preventing the transmission of light and noise from within any manufacturing district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening street, alley, or other public way. Such screening shall be provided within the manufacturing district, but not within a public street or alley, along the entire contiguity of said districts. See section 8-107.1 for minimum buffering standards.

8. Required Yards Within M-2 Districts - Due to the potentially noxious activities which may be permitted within M-2 Districts, special yard provisions are required.
   a. Provisions Applicable to Zone Lots Occupied by Any Activity Classified as Hazardous Manufacturing - In its review of any application for approval of a hazardous manufacturing activity proposed for location within an M-2 District, the County Commission shall establish yards and building separations sufficient to protect the health, safety and economic benefit of persons owning or occupying nearby property. As an absolute minimum such yards shall be as indicated below. Screening shall be provided as established in Subsection 7-103.4, Subpart 7, c, (Screening Along Residential District Boundaries).
      (1) Use Adjoins Residential or Agricultural Property - Along any rear or side lot line which adjoins residential or agricultural property, whether such property is presently occupied for residential purposes or only zoned for such use, an open area unobstructed from the ground to the sky at least one hundred (100) feet wide, shall be provided within the manufacturing district. Such open area shall not be paved nor used for off-street parking, loading, or storage or processing of any kind.

(2) Use Adjoins Commercial or Manufacturing Property - Along any lot line, which adjoins property, either classified or presently utilized for commercial or manufacturing purposes, and an open area at least seventy-five (75) feet wide, shall be provided. Such area may be utilized for off-street parking or loading, but shall not be used for storage or processing of any kind.

5-104 SUPPLEMENTAL PROVISIONS APPLICABLE TO M-2 DISTRICTS

The following section only applies to any property being requested by the applicant to be rezoned to M-2. All existing M-2 districts shall comply with the bulk and supplemental regulations herein.

5-104.1 Operation and Intent of Requested M-2 Districts - The M-2, Heavy Manufacturing District, is intended to provide a mechanism for managing a wide variety of high impact, potentially noxious and/or dangerous, but necessary uses or activities, which seek to locate within the Planning Jurisdiction. Certain of the potential uses that may locate within the district have associated with them some special impact or uniqueness related to materials, processes or products that can not be evaluated as to effect on the surrounding area or environment in advance of the use being proposed for a particular location. At the time an application is filed for approval of an M-2 District, a review of the location, design configuration and environmental impact will be conducted. This evaluation shall consider the proposed use, the proposed development plan and all operational and environmental data required to be submitted. The express goal of this review is to determine appropriate design criteria and environmental safeguards to be applied to such use in order to protect the health and safety of the public at large. The review will formulate a basis for a detailed recommendation to the County Commission as to the conditions under which the proposed use may be permitted to locate within the Planning Jurisdiction by virtue of creation of an M-2, Heavy Manufacturing District.

5-104.2 Development Plans and Review Process

1. Procedure for Submission and Review - The process for review and approval of any M-2, Heavy Manufacturing District, consists of three (3) progressive elements:
   a. Review and recommendation of a preliminary development plan by the applicable Regional Planning Commission as specified in Subpart 2, of this section.
   b. Consideration by the County Commission of the requested M-2 District, as specified in Subpart 3, of this section.
   c. Review and approval of a final development plan as specified in Subpart 4, of this section.
2. Preliminary Development Plan - All applications for approval of a M-2, Heavy Manufacturing District, shall be made by the landowner or authorized agent in accordance with the provisions of this section.
   a. Plan Content - All preliminary development plans submitted under this section shall be accompanied by the following:
      (1) Site Data and General Information -
         (a) Letter from the landowner detailing the proposed zone change.
         (b) Location map of the proposed site.
         (c) Preliminary site plan prepared by a licensed engineer indicating existing and proposed contours at a vertical interval no greater than five (5) feet, along with the location and proposed use of structures and other site alterations.
         (d) A land use map indicating the ownership and present usage of all parcels located within five hundred (500) feet, from the periphery of the proposed site.
         (e) Highway assessment indicating the existing width and type of pavement and existing traffic conditions of all roads giving access to the property.
      (2) Operational Data
         (a) Sufficient information to fully divulge the operational nature, intensity and ultimate extent of the proposed activity.
         (b) Nature of materials to be utilized and processes involved in the proposed operation, to specifically include a detailed listing of types and expected quantities of all materials classified as hazardous by the Federal Department of Environmental Protection or by the Tennessee Department of Environment and Conservation.
         (c) Average number of vehicles entering and leaving the site on a daily basis and the anticipated route(s) of travel.
         (d) Detailing of types and current status of all Federal and State permits required for operation of the proposed facility.
         (e) Detailing of all safety and protective measures to be utilized in connection with the operation as well as an indication of the system proposed for dealing with complaints.

(f) A general indication of the anticipated duration of the proposed use and, details of plans and methodologies proposed for removal of the activity and/or reclamation of the site.

(3) Environmental Data

(a) A listing of the type and quantity of emissions expected to be released from the site.

(b) Effects of the proposed use on ground water and air quality.

(c) Effects on surface water run-off and potential for any contamination of the same.

b. Planning Commission Recommendation - The information required by Subpart a, (above) shall be presented in sufficient copies for review and recommendation by the Applicable Regional Planning Commission. The Commission shall consider the preliminary development plan and forward a detailed recommendation concerning its disposition to the County Commission. This recommendation may contain suggestions for specific conditions and/or limitations to be applied to the use should the County Commission approve the zoning request.

3. Action by County Commission - After review and recommendation by the applicable Regional Planning Commission, the applicant may proceed to the County Commission with the proposal. At the meeting of the County Commission where the proposal is presented, the preliminary site development plan along with the action recommended by the Planning Commission shall be presented for review. The County Commission may approve or disapprove the rezoning request. Upon action by the County Commission approving the preliminary site development plan and the proposed change in zoning classification, the applicant may proceed to prepare and present to the Planning Commission a final site development plan as set forth in Subpart 4, of this section. In no event shall a building permit be issued for any portion of a development subject to this procedure until a final site development plan has been approved.

4. Final Development Plan - Following the action by the County Commission creating the M-2 District, the applicant may proceed to prepare and present for review by the Planning Commission a final development plan.

a. Information Required - The information indicated herein shall be provided with all final development plans submitted in accordance with this section.

(1) General Site Information - The information required by ARTICLE XII, Section 12-102.3, Subpart 2, (Site Plan) of this resolution, shall be provided.

(2) Approved State and Federal Permits - Copies of all permits required by State and Federal law for operation of the facility shall be provided.

(3) Site Restoration or Reclamation Plan - Depending upon the nature of the proposed use, a site restoration or reclamation plan may be required as a condition of zoning approval. Where such is required, said plan shall accompany the final development plan. Adequate provision, as determined by the County Attorney, shall be made to assure implementation of said plan regardless of the future financial capabilities of the applicant.

b. Determination of Substantial Compliance - Any final site development plan submitted in conformance with this section shall be evaluated as to the "substantial compliance" of such plan to the approved preliminary development plan and for compliance with all other provisions of this resolution which were not contained in the preliminary development plan. The final site development plan shall be deemed in substantial compliance with the preliminary site development plan provided modifications by the applicant do not involve changes which exceed those permitted by ARTICLE, XII, Subsection 12-102.7, “Construction to Be in Accordance with Approved Plans”. The Planning Commission shall review the plan as to its "Substantial Compliance" with the preliminary site development plan and either:

(1) Approve the plan as presented.

(2) Disapprove the plan. (See Subpart d, of this section.)

(3) Approve the plan with modifications, which in its judgment are required in order for the plan to meet the test of substantial compliance with the preliminary development plan and/or conditions established by the County Commission upon approval of the M-2 Zoning District. Where a final site plan is approved with modifications the provisions of Subpart c, of this section, shall apply.

c. Approval with Modifications, Applicants Response - When the Planning Commission's action on any final development plan is "Approval with Modifications", the Commission shall transmit to the property owner in writing the conditions or modifications which must be complied with in order that the proposed development receive approval. Within sixty (60) days of the transmittal of the required modifications, the applicant may make a written response concurring with the required modifications, in which case the development is deemed to have final approval, at the date of receipt by the Planning Commission of said written concurrence. When the applicant makes a negative reply or no reply is made within sixty (60) days of the date of conditional approval, the development shall be deemed disapproved, unless such time limit is extended by a specific action

of the Planning Commission upon a written request of the applicant. In the event of disapproval, the applicant may request review of such ruling as set forth in Subpart "e", of this section.

d. Disapproval - If the Planning Commission finds that the final plan does not meet the test for substantial compliance, or does not comply with other standards of approval established by the County Commission in its action creating the M-2, Heavy Manufacturing District, it shall disapprove the plan. In the event of disapproval, a written report shall be prepared by the Planning Commission and sent to the County Commission and the applicant. This report shall detail the grounds on which the plan was denied to specifically include ways in which the final plan violated the substantial compliance provisions or other standards of review.

e. Review of Approval Action - In the event that any final development plan shall be disapproved, such action shall, upon request by the applicant, be reviewed by the County Commission. The County Commission shall consider the report submitted by the Planning Commission and such other information as it may require in order to determine whether such development in its view meets the test of substantial compliance and complies with other standards of review, herein, established. Should the County Commission uphold the Planning Commission in its action, it shall notify the applicant that final approval of the development plan is denied. Should the County Commission override the Planning Commission's recommendation to disapprove the plan, it shall notify both the applicant and the Planning Commission of its decision and the action of the County Commission approving the plan shall become final.

5-104.3 Site Location and Design

1. General Location Criteria - The provisions of this section shall apply in determining the suitability of any site proposed for classification as an M-2 Heavy Manufacturing District.
   a. The proposed site will be located in areas apart from concentrations of residential developments and community facilities where concentrations of people will be present.
   b. The proposed use will not pollute or deteriorate air quality, surface or subterranean water, or any other natural features.
   c. The proposed site will not be located in an area that could contaminate the source of an existing water supply.
   d. The proposed site will be free of sinkholes, caves, caverns, or other karsts features that would present significant potential for surface collapse or significant degradation to local ground water resources.
   e. The proposed site will be adequately served by public utilities and services to ensure a safe operation.
   f. The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentration that would endanger community safety.
   g. The proposed site will have direct access from a road classified as an arterial or collector on the Major Thoroughfare Plan.
   h. The proposed lot shall be sufficient so that no danger occurs to the adjoining uses.
   i. The proposed site will not be located within a one hundred (100) year floodplain or wetland.
2. General Site Design Criteria -
   a. No excavation or filling shall be made within any portion of the yard areas required by Subsection 5-103.4, Subpart 8, (Required Yards Within M-2 Districts).
   b. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times, during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or annul/abolish the riparian rights of any other party to a stream or drain.
   c. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or wells.
   d. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
   e. The installation of roads, parking areas, buildings, structures and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
   f. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties.
   g. The proposed site must have a public supply of water available, capable of providing the required fire flow to fire hydrants on site.

5-104.4 Expansion of Facilities or Changes in Operational Characteristics

Any approval of an M-2 Heavy Manufacturing District, is specifically limited to the uses, facilities and operations presented and approved in the plans provided for by this section. Any expansion of the facilities or change in the materials, services or products shall only be accomplished after approval of a modified site development plan. Such modification may be approved by resolution of the County Commission.

ARTICLE VI

OVERLAY DISTRICTS

SECTIONS

6-101 OVERLAY DISTRICTS ESTABLISHED

6-201 PLANNED UNIT DEVELOPMENT DISTRICTS
- **6-202 ADMINISTRATIVE PROCEDURE GOVERNING PLANNED UNIT DEVELOPMENTS**
- **6-203 COMMON OPEN SPACE**
- **6-204 MINIMUM PERFORMANCE STANDARDS**
- **6-205 GENERAL DEVELOPMENT STANDARDS**
- **6-206 RESIDENTIAL DEVELOPMENT STANDARDS**
- **6-207 NONRESIDENTIAL DEVELOPMENT STANDARDS**

6-301 ADULT ENTERTAINMENT DISTRICTS

6-401 HISTORIC ZONING OVERLAY DISTRICT – RESERVED SECTION

6-100 OVERLAY DISTRICTS ESTABLISHED

6-101 Purpose and Intent - Overlay districts are hereby established as a means of addressing specific aspects of land use control or development that transcend conventional zoning district provisions. Included are overlay district provisions that permit greater design flexibility; and an overlay district designed to regulate the location of adult entertainment establishments

6-102 Applicability - An overlay district shall represent a mapped geographic area depicted upon the Official Zoning Map. Overlay districts may be applied to the base districts so indicated by this resolution and may encompass one or more of those districts. Unless expressly stated to the contrary in this article, all lands encumbered by an overlay district shall conform to all other applicable provisions of this resolution.

6-103 Planning Commission Approval - The Planning Commission shall review for approval all Master Development Plans for any proposed overlay district. The conceptual site plan shall show sufficient design layout illustrating a general conformance to the bulk and supplemental regulations for the specific use proposed. The County Commission shall hold a public hearing for the approval of any Overlay District pursuant to ARTICLE XII, Section 12-106. The Planning Commission shall determine final approval for the overlay district development plan.

6-200 PLANNED UNIT DEVELOPMENT DISTRICTS

6-201 General Provisions

6-201.1 Intent and Purpose - The planned unit development district regulations are an alternative zoning process that allows for the development of land in a well-planned and coordinated manner. This procedure is intended to provide opportunities for more efficient utilization of land than would otherwise be the case under the conventional provisions of this resolution. The planned unit development provisions permit a greater mixing of land uses not easily accomplished by the application of conventional zoning district boundaries, or a framework for coordinating the development of land with the provision of adequate roadways and public services. In return, the PUDs require a high standard for the protection and preservation of environmentally sensitive lands, well planned living, working and shopping environments and the timely provision of essential utilities and streets. The overlay district may be best utilized where distances from residential areas to established commercial centers are not convenient and those pockets of residential areas may be better served by neighborhood businesses planned within to serve those residents. Such areas may include but are not limited to: rural communities that once were self-sufficient with neighborhood type business but over time, such rural businesses have shifted to the urbanized cities and new highway corridors; recreational areas around the lakes and rivers of the county; or other rural areas of the county that lack basic business services for those nearby residents.

6-201.2 Consistency with the Regional Plan and Area Development Plans - No planned unit development shall be approved, unless all plans for development are found to be consistent with the then current issue of the *Land Use and Transportation Plan (Regional Plan)* for the County and any adopted special development plan for the area in which it is proposed. The Planning Commission shall make a finding regarding the consistency of any proposed planned unit development, said report to include findings that the development:

a. Will be consistent with the currently effective *Land Use and Transportation Plan (Regional Plan)* as well as any special development plans for the area.
b. Is likely to be compatible with development permitted under the general development provisions of the zoning resolution.
c. Will not significantly interfere with the use and enjoyment of other land in the vicinity.

6-201.3 Application of the District

a. General
A planned unit development overlay district may be applied over any base-zoning district or districts established in ARTICLE II, of this resolution.
b. Provisions May Be Made Mandatory - In the event that the adopted development plan for an area in which any planned unit development is proposed so recommends, the Planning Commission shall require that all petitions of land within the area shall be formulated and administered in accordance with this article, including any amendments thereto. As appropriate for their respective areas, adopted development plans shall also contain recommendations which may differ from or supplement the provisions of this article respecting new or modified planned unit development districts; design standards for signage, setbacks, parking, and other matters, to be made applicable either area-wide or within particular planned unit development districts, or both.
c. The Planned Unit Development Overlay zone may be applied to any base-zoning district. Should the applicant propose a mixed-use development, the base zoning shall be rezoned through the standard rezoning process pursuant to Article II. The applicant shall specify by means of a legal survey instrument, which portions of the property or properties are petitioned for rezoning. Any residential or agricultural base zoning within a PUD may utilize the Open Space Residential Development (OSRD) provisions, while any commercial base zoning district may utilize the provisions of this section as herein described. The complete overall base zoning and overlay zoning shall be illustrated on the required Master Development Plan, herein required.

6-201.4 Relation of Planned Unit Development Regulations to General Zoning, Subdivision, or Other Regulations; Variations on Equal Satisfaction of Public Purposes

The planned unit development regulations that follow shall apply generally to the initiation and regulation of all planned unit development districts. Where there are conflicts between the special planned unit development regulations herein and general zoning, subdivision, or other regulations or requirements, these regulations shall apply in planned unit development districts.

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable planned unit development or general regulations, but the Planning Commission makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Planning Commission may make specific modification of the regulations in the particular case, provided that where floor area and similar ratios (other than off-street parking) have been established by these regulations, the Planning Commission shall not act in a particular case to modify such ratios.

Except as indicated above, notwithstanding procedures and requirements generally in effect, procedures and requirements set forth herein and in guides and standards officially adopted as part of regulations for particular classes of planned unit development districts shall apply in planned unit development districts, to any amendments creating such districts, and to issuance of all required permits, therein.

6-201.5. Jurisdiction of Planning Commission - Activities which require approval by site plan review by the Planning Commission under various provisions of this ordinance (see Appendix B) may be allowed within planned unit developments during the initial build-out of said developments provided that the locations, nature and extent of such activities are approved initially by the Planning Commission as part of the Master Development Plan or any subsequent amendment, thereto. Following acceptance of streets by the County Commission within said development; the Planning Commission may approve such uses-on-review in the manner specified in Appendix B, within all residential and non-residential planned unit developments.

6-201.6. Ownership and Division of Land - No tract of land may receive preliminary approval as a planned unit development unless such tract is under the unified control of a landholder as defined by this resolution. Unless, otherwise, provided as a condition of approval of a planned unit development, the landholder of an approved planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and shall use and maintain it in strict conformance with the adopted Master Development Plan.

A report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area shall be submitted along with any application for approval of a Master Development Plan. The report shall state agreement of all present property owners and/or their successors in title:

a. To proceed with the proposed development according to the regulations in effect when the map amendment creating the overlay district becomes effective, and with such modifications as are set by the Planning Commission in the course of such action.
b. To provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the Planning Commission in the course of such action.
c. To bind further successors in title to any commitments under Subparts a, and b, above.

6-201.7. Staging of Development - The Planning Commission may elect to permit the staging of development, in which case, the following provisions shall apply.

a. Each stage shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed with subsequent stages will not have an adverse impact on the planned unit development or its surroundings.
b. Each stage of the development shall, at the time of approval of any final site development plan for any portion of that stage, be assured adequate public services to serve all development proposed for that stage.

6-202 Terms Defined

Actual Construction - The excavation of a site and/or the placement of building materials in conjunction with the construction of a building or other structure.

Common Open Space - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for benefit, use or enjoyment of the occupants of said development. "Common Open Space" may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants of such development.

Cultural and Environmental Open Space - A parcel or parcels of land and/or an area of water within a planned unit development that is held in some form of common ownership and restricted to use only as: (1) vegetative buffers, or other forms of environmental protection including floodplains, steep slopes or other environmentally sensitive lands; or (2) a site of historic or prehistoric human activity such as, but not restricted to, mounds, forts earthworks, burial grounds, structures, villages, mines, caves and all locations which are listed on the National Register of Historic Places.

Improved Recreational Open Space - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for benefit, active or passive recreational use or enjoyment of the occupants of said development.

Landholder - The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development.

Private Use Open Space - Open areas located upon a lot and held for the exclusive use and enjoyment of owner(s) of such property.

Shared Use Open Space - Shared use open space may exist within a planned unit development both as limited use or general use shared open space. Limited use shared open spaces are those limited to use by only a portion of the individuals who reside within the planned unit development. Shared general use open space is intended to be available for use by any resident of the development but may be limited to use only by residents and their guests.

6-203 ADMINISTRATIVE PROCEDURE GOVERNING PLANNED UNIT DEVELOPMENTS

6-203.1 Purposes and Intent - The purpose of these provisions is to prescribe a procedure for the review, approval and continued administration of all planned unit developments provided for by this section.

6-203.2 Pre-application Conference - Approval of a planned unit development the applicant shall confer with the Planning & Zoning Department concerning policy and procedure relative to the application. The Planning & Zoning Department shall arrange a formal meeting where the applicant or his representative shall meet with other staff persons who will be involved in reviewing and recommending action on the proposed plan of development.

6-203.3 Preliminary Approval of the Proposed Planned Unit Development

1. Application for Preliminary Approval - Application for preliminary approval shall be made by the landholder of the affected property or his authorized agent to the Planning & Zoning Department in accordance with such written general rules regarding general procedure, form of application, and required information as the Planning Commission may determine, provided they are not inconsistent with the requirements set forth below. All plans shall be prepared by a qualified licensed professional such as an engineer, surveyor or landscape architect.

2. Preliminary Master Development Plan of a Planned Unit Development - The preliminary master development plan for the proposed planned unit development shall be a general concept plan that shall include the following:
   a. Sufficient Information to Disclose:
      (1) The location and size of the area involved.
      (2) Location of transportation routes including streets, driveways, sidewalks, and pedestrian ways, and off-street parking and loading areas.
      (3) Location and approximate dimensions of structures, other than one and two family detached dwellings, including approximate height, bulk and the utilization of structures including activities and the number of living units.
      (4) Estimated population and density and extent of activities to be allocated to parts of the project and a listing of land uses proposed for the development.
      (5) Reservations for public uses including schools, parks, and other open spaces.
      (6) Other major landscaping features.
      (7) The general means of the disposition of sanitary wastes and storm water.
      (8) The type and proposed use for any common open space included within the proposed development. (Such information shall be sufficient to meet the requirements of Subpart 4, of Subsection 6-203.1, "Quality, Use and Improvement of Common Open Space".)
      (9) The ownership of all property proposed for incorporation within the PUD District. (A copy of all deeds along with written documents signed by all property owners indicating willingness to abide by the approved development plan.)
      (10) The base zone district(s) proposed for inclusion within the planned unit development.
      (NOTE: In an effort to increase the marketability of nonresidential sites located within PUD Districts, the applicant may submit a list of alternative land uses, other than the uses shown on the plan, for such sites. Any such listing may contain only land uses permitted within the base zoning district(s) which the planned development district overlays and may be further limited, as provided in Subsection 5-207.1.
   b. A tabulation of the land area to be devoted to various uses and activities and overall densities.
   c. The nature of the landholder's interest in the land proposed to be developed and a written statement of concurrence from all parties having a beneficial interest in the affected property. (See Subsection 6-201.1, Subpart 6.)
   d. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities, drainage ways and common open space.
   A. When it is proposed that the final master development plan will be submitted in stages, a schedule of submission thereof shall be required.
   B. If the Planning & Zoning Department deems the application incomplete, a written request shall be made within fifteen (15) days after the original submittal, for further information. In such case the application shall be held in abeyance until deemed complete for final review. No plan shall be formally presented for Planning Commission action until such plan is found complete and ready for review.

3. Review by Other Departments of Local Government - Other departments of the county or city, as appropriate, shall review the plan for the proposed planned unit development.

4. Planning Commission Action on Application for Planned Unit Development Overlay District
Within forty-five (45) days after initial submission the Planning Commission, shall take action on the preliminary application by any one of the following:
    a. Unconditional preliminary approval.
    b. Conditional preliminary approval, in which the Planning Commission expressly denotes modifications, which must be a part of the preliminary approval.
    c. Disapproval.

5. Conditional Preliminary Approval - Landholder's Response - When the Planning Commission's action is conditional preliminary approval, the Planning Commission shall specifically note in its' minutes the conditions or modifications that must be compiled with in order that the proposed planned unit development receive preliminary approval. Within sixty (60) days following the meeting wherein conditional approval is granted the landholder may make a written response concurring with the required modifications, in which case the planned unit development is deemed to have preliminary Planning Commission approval, at the date of receipt of said written concurrence. When the landholder makes a negative reply or does not reply within sixty (60) days of the date of conditional preliminary approval of the planned unit development such action shall constitute a negative response and the Planning Commission shall disapprove the plan, unless such time limit is extended by specific action of the Planning Commission upon a written request of the landholder.

6. Planned Unit Development and the Official Zoning Map - Upon approval by the Planning Commission, the Building Commissioner shall place the extent of the planned unit development overlay on the official zoning map identified by the resolution number providing approval. Similarly in the instance of action by the Planning Commission abolishing or canceling the planned unit development, the Building Commissioner shall remove the PUD Overlay District from the official zoning map.

7. Addition of Land Uses Not Included Within an Approved Preliminary Master Development Plan
The proposed addition of any use not authorized within an approved preliminary development plan and accompanying listing of alternative nonresidential land uses but allowable within the base zoning district wherein such use is proposed, may be added to the plan only when approved as provided, herein. The Planning Commission shall hear all such proposed amendments. In the course of its consideration of any alteration presented hereunder, the Planning Commission shall hold a public hearing.

6-203.4 Final Approval of a Proposed Planned Unit Development - The final approval by the Planning Commission of the planned unit development shall be subject to the procedures and requirements of this section.

1. Application for Final Approval - Following approval of a preliminary planned unit development plan, the landholder may make application to the Planning Commission for approval of final development plans for all or a portion, provided the portion is consistent with the staging schedule approved with the preliminary development plan of the proposed planned unit development. No action shall be taken on any final development plan for any portion of a planned unit development until the landholder demonstrates that all land included within the portion of the development for which final approval is being sought is owned by the landholder and that any options have been closed.

   The application shall include all aspects of the preliminary application, the proposed final master development plan, other required drawings, specifications, covenants, easements, and conditions and forms of bond as were set forth by the Planning Commission resolution of preliminary approval. Copies of legal documents required by the commission for dedication or reservation of group or common open space and/or for the creation of a nonprofit association shall also be submitted.

2. Final Approval of Stages - The application for final approval and the final approval by the Planning Commission may be limited to each stage as appropriate in a large planned unit development, in compliance with the staging plan approved as part of the preliminary development plan.

3. Final Master Development Plan of a Planned Unit Development - The application for final approval shall be sufficiently detailed to indicate the ultimate operation and appearance of the development, or portion thereof, and shall include, but not limited to the following:

a. Final Development Plan Drawings at a Scale No Smaller Than One (1) Inch to Two Hundred (200) Feet Indicating:
   (1) The anticipated finished topography of the area involved (contours at vertical intervals no greater than two (2) feet where topography does not exceed ten (10) percent and five (5) feet) elsewhere.
   (2) A circulation diagram indicating the proposed movement of vehicles, goods, and pedestrians within the planned unit development and to and from existing thoroughfares. This shall specifically include: Width of proposed streets; a plan of any sidewalks or proposed pedestrian ways; and any special engineering features and traffic regulation devices needed to facilitate or insure the safety of the circulation pattern.
   (3) An off-street parking and loading plan indicating ground coverage of parking areas.
   (4) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, and other public or semi-public open space uses including any improvements, which are to be deeded as part of any common use area. (Such information shall include detailed site designs indicating all intended uses, equipment and facilities along with building or construction plans for the same.)
   (5) Information regarding the physical characteristics of the surrounding area and developments within three hundred (300) feet of the proposed planned unit development.
   (6) Within nonresidential developments, a plan for each building site showing the approximate location of all buildings, structures, and improvements and indicating the open spaces around buildings and structures. Within residential developments typical building envelopes shall be shown.
   (7) A plan for proposed utilities including sewers, both sanitary and storm, gas lines, water lines, fire hydrants and electric lines showing proposed connections to existing utility systems.

b. A detailed land use map and a listing of land uses approved for the development.
   (NOTE: The listing of approved land uses shall include the list of alternative land uses, other than the uses shown on the plan, which were approved within the preliminary planned unit development plan for nonresidential sites located within the development.)

c. A tabulation of proposed densities to be allocated to various parts of the area to be developed.

d. Final drafts of all proposed covenants and grants of easement that are proposed for filing with final plats. Such documents shall be in a form approved by legal council.

e. Final drafts of all proposed documents creating a homeowner's association or similar organization created for the purpose of owning and maintaining any common open space of facilities associated therewith.

f. A detailed listing of all conditions of approval to which the particular development, or individual sites located therein, are subject.

4. Action on Final Plan - In reviewing a final plan, the function of the reviewing agencies is twofold. First, the plan must be found to be in substantial compliance with the previously approved preliminary development plan. Secondly, all new information must be reviewed to determine its quality and compliance with all substantive requirements of this ordinance.
   a. Review Procedure
      (1) Application for final approval shall be made to the Planning Commission.
      (2) The completed final plan must be submitted to the Planning & Zoning Department ten (10) days prior to the meeting of the commission at which the plan is to be presented. Ten (10) copies of the plan and related documents will be required.
      (3) Within thirty (30) days subsequent to the formal presentation of the final plan to the Planning Commission it shall be the duty of the Planning & Zoning Department Director to present data and findings of the various departments and agencies of the government concerning the proposed plan to the Planning Commission.
      (4) The Planning Commission may approve the final plan if it finds:
         (i) That the final plan meets the provisions for substantial compliance with the preliminary plan set forth in Subsection 6-202.5, (below), and
         (ii) That the plan complies with all other standards for review, which were not considered when the preliminary plan was approved.

5. Approval with Modification - Should the Planning Commission require any modification in the final development plan or any portion thereof including covenants, etc.; such modifications shall be agreed to by the applicant in writing prior to formal acceptance and filing of the final development plan.

6. Filing of an Approved Final Development Plan - Upon formal action by the Planning Commission approving a final development plan, or in the instance of conditional final approval, upon acceptance of the

modifications as set forth in Subpart, 5 of this section, said plan and all maps, covenants, and other portions thereof, shall be filed with the Building Commissioner.

7. Disapproval - If the Planning Commission finds that the final plan does not meet the test for substantial compliance set forth in Subsection 6-202.5, or does not comply with other standards of review it shall disapprove the plan. In the event of disapproval, a written report shall be prepared by the Planning Commission and sent to the applicant. This report shall detail the grounds on which the plan was denied to specifically include ways in which the final plan violated the substantial compliance provisions or other standards of review.

6-203.5 Determination of Substantial Compliance - The final development plan shall be deemed in substantial compliance with the preliminary development plan provided modifications by the applicant do not involve changes which in aggregate:

1. Violate any provisions of this article;
2. Vary the lot area requirement as submitted in the preliminary plan by more than ten (10) percent;
3. Involve a reduction of more than two (2) percent of the area shown on the preliminary development plan as reserved for common open space and/or usable open space;
4. Increase the floor area proposed in the preliminary development plan for nonresidential use by more than five (5) percent; and
5. Increase the total ground area covered by buildings by more than two (2) percent.
6. Involve any land use not specified on the approved preliminary development plan or the alternative list of uses for nonresidential sites.
7. In any instance wherein a final development plan, including minor changes authorized under the provision of Subsection 6-202.10, ("Minor Site Modifications to an Adopted Final Planned Unit Development Plan") is found to not meet the test of substantial compliance as set forth herein such plan may only be approved upon adoption of appropriate amendments to the adopted plan.

6-203.6 Failure to Begin Planned Unit Development - If no "actual construction" has begun in the planned unit development within three (3) years from the date of approval of the final development plan, or section thereof, said approval shall lapse and be of no further effect. No further developmental activity may take place until the existing development plan is reinstated to an active status or a revised development plan meeting all conditions of approval of the original plan is approved.

6-203.7 Maintaining a Current Development Plan - Building permits may be issued only within such portion(s) of a planned unit development for which a current final development plan is in effect. In spite of prior approvals, no action shall be taken in furtherance of any plan for a planned unit development for which a current final development plan is not in effect. In any instance where the approval of such plans may have lapsed due to non-commencement of actual construction (See Subsection 6-202.6), the following actions may be taken.

1. Reinstatement of Previously Approved Development Plan - In the event that actual construction may not have begun and/or the approval of the final development plan shall have lapsed, such plan may be reinstated by action of the Planning Commission and development may proceed, provided that no change is proposed that would require amendment of the plan.
2. Amending a Lapsed Development Plan - In the event that actual construction may not have begun, approval of the development plan shall have lapsed and revisions and/or alterations are proposed that exceed the minor site modifications authorized by Subsection 6-202.10, and thus would require amendment of the plan, such action may be accomplished only with the approval of a new preliminary development plan.

6-203.8 Enforcement of the Development Schedule - The construction and provision of all common open spaces and recreational facilities that are shown on the final development plan must proceed at no slower rate than the construction of dwelling units. From time to time the Planning Commission shall compare the actual development accomplished with the approved development schedule. If the commission finds that the rate of construction of dwelling units or other commercial or manufacturing structures is substantially greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, then the Planning Commission may take either or both of the following actions:

1. Cease to approve any additional final plats;
2. Instruct the Building Commissioner to discontinue issuance of building permits;

6-203.9 Building Permits and Compliance Permits - Building permits and Compliance Permits shall be issued for uses, buildings and other structures in planned unit developments in accordance with this section; otherwise, permits and certificates shall be issued in accordance with the other provisions of this resolution as applicable.

1. Site Development Plans
   Final site plans shall be required in accordance with the provisions of ARTICLE XII, Subsection 12-102.3, Subpart 2 (Site Plan Requirements).
2. Building Permits
   A building permit may be issued for structures, buildings, activities, or uses only in strict compliance with the adopted final development plan of the particular planned unit development including the conditions of approval. No building permit shall be issued for the area included in a preliminary planned unit development until the final development plan has been adopted.
3. Use and Occupancy Permits
   A Zoning Compliance Permit may be issued only when the Building Commissioner determines that the structure, building, activity, or use as a part of a planned unit development conforms to the adopted final development plan, including the conditions of its approval.

6-203.10 Minor Site Modifications to an Adopted Final Planned Unit Development Plan

Minor modifications in the terms and conditions of the adopted final development plan may be made from time to time as provided in the following paragraphs. Any proposed modification not permitted under these provisions may be approved only as an amendment to the adopted final development plan.

1. Minor Modifications During Construction - The Building Commissioner may approve minor modifications in the location, citing, and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the final development plan was approved so long as no modification violates the basic policy and concept or bulk and open space regulations of the planned unit development as presented in the preliminary development plan. Minor modifications in the location of streets and underground utilities may be approved under this section. The total of such modifications approved by the Building Commissioner shall never in aggregate result in:
   a. Any increase in the number of residential units;
   b. An increase of more than three (3) percent in the floor area proposed for nonresidential use of a commercial or manufacturing nature;
   c. An increase of more than three (3) percent in the total ground area covered by buildings; or
   d. A reduction of more than two (2) percent in the area set aside for common open space.

2. Subjects not Included for Modification - The proposed addition of any use not approved in the final development plan as well as any increases in the number of dwelling units permitted, increase in building height, decreases in the parking requirements, and vision clearance area are not subjects for adjustments by the Building Commissioner. Any proposed modifications of any of the above may be made only as amendments to the adopted final development plan.

3. Minimum Adjustments Only - Any modification must be held to the minimum necessary. Each of the following conditions must be found to apply to the particular circumstances prior to the granting of the adjustment.
   a. Practical Difficulties or Unnecessary Hardship - Which strict application of the provisions of this resolution would result in practical difficulties or unnecessary hardships.
   b. Extraordinary Circumstances - That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings or uses referred to in the application, which circumstances or conditions do not apply generally to other land, buildings or uses in the same district.
   c. Not Detrimental - That granting the application will not be detrimental, to the public welfare or injurious to property or improvements in the neighborhood of the premises.
   d. Health or Safety not Adversely Affected - That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.
   e. Maintains Intent of Ordinance and the Development Plan - That such adjustment is within the intent and purpose of the ordinance and will not adversely affect the community objectives of the comprehensive plan.

6-203.11 Amendments in an Approved Final Development Plan During Initial Construction - During the period of actual development or construction of any planned unit development, (or when developed in stages of any portion of the total development) the provisions of this section shall apply to all proposed modifications, which exceed the minor adjustments permitted by Subsection 6-202.10. Once a planned unit development, or portion thereof, has been completed, any further changes or alterations shall be governed by the provisions of Subsection 6-203.12.

All proposed additions of uses not approved in the final master development plan as well as any decreases in the number of parking spaces or vision clearance area shall be subject to these provisions. In addition all minor modifications that exceed the cumulative changes in the ground coverage ratio, etc., permitted under Subsection 6-203.10, shall be governed by the provisions of this section.

1. Addition of Uses Not Authorized in the Approved Development Plan, but Allowable Within the Base Zoning District - The proposed addition of any use not authorized within an approved preliminary development plan and listing of alternative nonresidential land uses but allowable within the base zoning district wherein such use is proposed, may be added to the plan only when approved as provided, herein. The Planning Commission shall hear all such proposed amendments. In the course of its consideration of any alteration presented hereunder, the Planning Commission shall hold a public hearing.

2. Addition of Residential Density, Floor Area of Nonresidential Uses and All Other Changes, Other Than Changes in Use, Not Authorized in the Approved Development Plan, but Allowable Within the Base Zoning District - All proposed additions other than the additions of uses governed by Subpart 1, of this section, including the addition of residential density or nonresidential use area that exceed the minor changes permitted under Subsection 6-202.10, and were not authorized in the approved final development plan, but are allowable within the base zoning district, shall be considered as provided, herein.

   All amendments to an approved development plan proposed under this section shall first be presented to the Planning Commission for a recommendation. In the course of its consideration of any amendment proposed hereunder the Planning Commission may hold a public hearing for all residents and parties who in the judgment of the Planning Commission have an interest in the amendment.

6-203.12 Control of Planned Unit Development Following Completion

1. Issuance of Certificate of Completion - Upon completion of a planned unit development, or when developed in stages, of any portion of said development, the Building Commissioner shall note the completion on the final development plan.

2. Changes in the Use of Land or Bulk of Structures Within a Planned Development After Completion - After completion of a planned unit development, or portion thereof, has been certified, the use of land and the construction, modification, or alteration of any buildings or structures within the planned development will be governed by the approved final development plan, to the extent that such provisions are applicable rather than by any other provisions of this ordinance. In any instance where a change in the completed development is proposed the Planning Commission shall review the final development plan and shall provide an evaluation of the proposed change to the agency to which application for the change has been made. Such evaluation shall as a minimum indicate the Commission's findings concerning consistency of the proposed change with the approved development plan and impact upon the continued successful operation of such development relative to its original purpose and intent. In the course of its consideration of any change proposed hereunder the Planning Commission shall hold a public hearing for all residents and parties who in the judgment of the Planning Commission have an interest in the proposed amendment. No changes may be made in the final development plan, unless such are required for the continued successful functioning of the planned development or unless such are required by changes in conditions that have occurred since the final plan was adopted or by changes in the development policy of the community. Changes may be made in the approved final development plan, only upon application to the appropriate agency under the procedure below:
   a. Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning Commission, if the extensions, alterations or modifications are determined to be consistent with the purposes and intent of the recorded final development plan. No change authorized by this section may increase the cube of any building or structure by more than ten (10) percent.
   b. Any uses not authorized by the approved final development plan, but allowable as a permitted use, a use permitted with supplemental provisions or a conditional use in the base zoning district

within which the planned development is located, may be added to the recorded final development plan under the procedures provided by this ordinance for the approval of conditional uses. (See Subpart 5, of Subsection 6-201.1, "General Provisions.

c. A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan, unless an amendment to the final development plan is approved, as set forth below.
d. Changes in the use of common open space may be authorized by an amendment to the final development plan provided that no amendment approved hereunder may act to abrogate or annul any covenant which provides for the use, operation, or continuance of the common open space.
e. No changes in the final development plan, which are approved under this section, are to be considered as a waiver of the covenants limiting the use of land; buildings, structures and improvements within the area of the planned development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

3. Resubdivision of a Planned Unit Development After Completion - A planned unit development may be subdivided and resubdivided for purpose of sale or lease after the certificate of completion has been issued under the procedures set forth below:
   a. If the subdivision or resubdivision of the planned development will create a new plot line, the applicant shall make application to the Planning Commission for the approval of a subdivision or resubdivision. The Planning Commission may approve the subdivision or resubdivision of each section of the subdivided or resubdivided planned development if it meets the provisions of this article governing density, common open space, and dimensional requirements.
   b. All sections of a subdivided or resubdivided planned development are to be controlled by the final development plan rather than by the provisions of the zoning ordinance that otherwise would be applicable.
   c. The owners or lessees of a subdivided or resubdivided planned development may jointly make application for a conditional use or for an amendment to the adopted final development plan.

6-204 COMMON OPEN SPACE - Any common open space established by an adopted Final Master Development Plan for a planned unit development shall be subject to the following:

6-204.1 Quality, Use and Improvement of Common Open Space

1. Common open space shall be utilized for amenity, site protection or recreational purposes. The uses authorized for common open space shall be appropriate to the scale and character of the planned unit development considering its size, developmental density, expected population, topography and the use and quality requirements pursuant to Section 3-104.3, #5, 6 and 7.

2. No common open space may be put to any use not specified in the approved Final Development Plan, unless such plan has been amended by action of the Planning Commission to specifically allow the change of use. No matter how authorized, no change may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use so permitted are expressly reserved.

3. Common open space may, subject to approval by the Planning Commission, consist of improved or unimproved land. All such land shall be designated as to its intended use upon the Final Development Plan, all site development plans and all plats.

4. The Final Development Plan shall indicate the intended use of all common open space located within the development. In the case of improved recreational space, such plan shall indicate in detail the design of such spaces along with a listing of all equipment proposed for location within these spaces.

6-204.2 Conveyance of Common Open Space - All land shown on the final development plans, as common open space shall be conveyed under one of the following options:

1. It may be conveyed to a public agency that will agree to maintain the common open space and any buildings, structures, or improvements that have been placed on it.

2. It may be conveyed to trustees provided in an indenture establishing an association, funded trust, or similar organization meeting the requirements of Subsection 6-203.3, below, for the maintenance of the common open space within the planned development. The common open space shall be conveyed to the trustees subject to covenants to be approved by the Planning Commission. Such covenants shall restrict

the common open space to the uses specified on the Final Development Plan, and provide for maintenance of the common open space in a manner that assures its continuing use for its intended purposes.

3. Where any land within an approved planned unit development district is proposed to be subdivided into residential lots and such land contains improved recreational open space (see definition) the recreational open space and all proposed improvements shall be completed and conveyed in the manner provided in Subparts 1 and 2, of this section, either at the time of filing of the final plat or at the time streets and other improvements located within such development are offered for public dedication or acceptance by maintenance organization created pursuant to Subsection 6-203.3.

6-204.3 **Requirement for Maintenance Organization** - In any instance where common open space is to be conveyed to an organization other than a public agency, the Planning Commission shall require that the landholder provide for and establish an organization for the ownership and maintenance of any common open space, and that such organization shall not be dissolved nor dispose of any common open space, by sale or otherwise except to an organization conceived and established to own and maintain the common open space.

6-204.4 **Mandatory Provisions Governing Organization of Maintenance Association** - In any instance where common open space is to be deeded to a maintenance organization, the landholder shall file a declaration of covenants and restrictions that will govern the association. This document is to be submitted with the application for approval of the final plat. Proof of recording of this document shall be presented to the Building Commissioner prior to recording of the final plat. The provisions of this document shall include but not be limited to, the following:

1. The maintenance organization shall be established, funded and operational before any property is sold.

2. Membership shall be mandatory for each owner and must run with the land so that any successive purchaser will automatically become a member.

3. The restrictions covering the use, etc., of the open space shall be permanent, not just for a period of years.

4. The association(s) shall be responsible for liability insurance, local taxes and the maintenance of all facilities and lands deeded to it.

5. Property owners shall pay their pro rata share of the cost assessed by the maintenance association; said assessment by the association can become a lien on the owner's property for failure to pay.

6. The association shall be able to adjust the assessment of fees to meet changing needs.

7. As a minimum the requirements shall meet the standards established for such associations by the Federal Department of Housing and Urban Development or the Veterans Administration.

6-204.5 **Failure of Maintenance Organization** - In the event that the organization established to own and maintain common open space, or any successor organization shall at any time after the establishment of the planned unit development fail to maintain the common open space in reasonable order and condition in accordance with the adopted Master Development Plan, the Building Commissioner may serve written notice upon such organization and/or the owners or residents of the planned unit development and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the Building Commissioner shall call upon any public or private agency to maintain the common open space for a period of one (1) year. When the Building Commissioner determines that the original organization is not prepared for the maintenance of common open space, the agency appointed under the provisions of this section may continue maintenance for yearly periods. The cost of such maintenance shall be assessed proportionately against the properties within the planned unit development that have a right of enjoyment of the common open space, and shall become a special assessment to the property tax or a lien on said properties.

6-204.6 **Assurance Involving the Provision of Common Open Space** - The Planning Commission shall require adequate assurance, in a form and manner, which it approves, that the common open space shown on the final development plan will be provided and developed. The following methods of assurance are illustrative of the types of assurances required. They may be used singly, in combination or in conjunction with other similar methods:

1. The County may accept a Letter of Credit, corporate surety, or other acceptable financial guarantee in an amount sufficient to purchase the common open space shown on the approved development plan or final plat. This surety is to be presented with the final subdivision plat for the lots served by the open space.

2. The title to the land shown as common open space may be put in escrow. The escrow agreement to provide that the land is to be held in escrow until the Planning Commission has certified to the escrow agent that the planned development has been completed, at such time the common open space is to be conveyed as provided in this section. The escrow agreement may provide for the release of common open space by the escrow agent in stages. In such instance the Planning Commission is to certify the completion of each stage of the planned unit development to the escrow agent and the escrow agreement must provide that the open space may be conveyed in stages. In this event, the open space that is conveyed is to be of the same proportions to the total open space provided on the final development plan as the dwelling units that have been built are to the total number of dwelling units which are allowable by the approved Master Development Plan.

3. In general, the construction and provision of all common open spaces and public and recreational facilities shown on the Master Development Plan must proceed at no slower rate than the construction of dwelling units. From time to time the Planning Commission shall compare the actual development with the development schedule. If the Commission finds that the rate of construction of dwelling units or commercial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may either cease to approve additional final plats and/or instruct the Building Commissioner to discontinue issuance of building permits.

6-205 **MINIMUM PERFORMANCE STANDARDS** - In addition to satisfying all other applicable provisions of this ordinance, approval of a Master Development Plan shall be based upon a demonstration that the following design and development objectives have been satisfied.

6-205.1 **Protection of Cultural and Environmentally Sensitive Areas** - Approval of a planned unit development district shall be based upon a demonstration that the proposed development plan will result in greater protection and preservation of cultural or environmentally sensitive areas than would otherwise result under provisions of the base-zoning district. Areas to be protected shall include undisturbed hillsides in excess of eighteen (18) percent, designated wetlands and all floodplain areas along streams, major drains and sinkholes as well as all sites of paleontological, prehistoric, historic and/or archeological significance, to specifically include any properties listed on the National Register of Historic Places.

6-205.2 **Adequate Streets, Utilities and Drainage** - Approval of a planned unit development district shall be based upon a demonstration that off-site streets, utilities and drainage features will be of adequate capacity to serve the proposed development in a manner that maintains the integrity and operational capacity of these networks to standards equal to or greater than current levels of operation. As a part of a proposal for a planned unit development district a property owner may offer to improve or otherwise provide adequate facilities to support the proposed intensity of development. Public facilities already included in an adopted Capital Improvements Budget may be considered a demonstration of adequate capacity if the proposed funding is timed with anticipated construction of the development. All final development plans shall comply with the then current edition of the adopted major route plan.

6-205.3 **Coordinated Vehicular Access** - Approval of a planned unit development district shall be based upon a demonstration that the internal traffic circulation system will be adequate to support the operational needs of the development itself in a manner that maintains the integrity and operational capacity of the community's major street network to standards equal to or greater than current levels of operation.

6-206 **GENERAL DEVELOPMENT STANDARDS** - The following provisions shall be applicable as indicated to all planned unit developments.

6-206.1 **Relationship to Other Requirements** - Unless otherwise specified in this article, all requirements and standards established by other provisions of this resolution shall apply to the development and use of properties located within any PUD District. In a case of conflict between the provisions of this article and any other provision of this resolution, the provisions of this article shall apply within PUD Districts.

6-206.2 **Landscaping and Buffering** - Within any planned unit development, landscaping and buffering shall be provided which meets or exceeds the purposes and intents for such established elsewhere in this resolution (Section 8-107). It is intended, however, that within planned unit development districts, alternative means may be employed to achieve an equal level of protection to that resulting from strict application of the provisions of other provisions of this resolution. This provision is intended to permit and encourage the use of flexible techniques to achieve a transitional character through site design which minimizes the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use.

6-206.3 **Parking, Loading and Access** - All planned unit developments shall be subject to the provisions of ARTICLE VII, (Parking, Loading and Access Regulations) provided that the Board of Zoning Appeals may permit a variance from off-street parking and loading requirements in approving a final site development plan.

6-206.4 **Architectural Compatibility** - Architectural features deemed essential to ensure compatibility with surrounding properties shall be incorporated within the design of the planned unit development district. Architectural compatibility should be limited to those portions of the development, which abut adjacent properties or can be seen from the frontage street. Examples of architectural features, which may be important for ensuring compatibility, include building bulk, height, roof slopes, building orientation, overhangs, porches and exterior materials.

6-206.5 **Application of Supplemental Provisions** - In general, the provisions of Appendix B Section B-104, (Supplemental Design Provisions), shall apply within any Residential Planned Unit Development District in a like manner as within a similar development located within any base district. Provided, however, that modifications within these standards may be recommended by the Planning Commission as part of the Master Development Plan. Any modification approved, herein under, shall provide facilities or standards of design, which equal or exceed the specific requirements established in Section B-104.

6-206.6 **Location and Required Area of Non-residential Planned Unit Development**

1. Review of Adopted Long-Range General Plan Required - In no event shall the location, composition, and extent of a proposed non-residential planned unit development be approved unless such proposed development is consistent with the policies regarding land development adopted by the Planning Commission in the current *Land Use & Transportation Plan* and the *County Growth Management Plan (PC1101)*.

2. Market Analysis for Non-residential Planned Unit Development - The Planning Commission may require a market analysis for any proposed non-residential planned unit development. The market analysis will be utilized, among other things, to determine the impact of the proposed development on the long-range development of the commercial land use in the area, to determine the timing of any proposed development, to limit the extent of convenience districts, serving a particular residential area; to ascertain the effects of a proposed development upon lands used or zoned for commercial purposes; to form a basis for evaluating the estimated effects on traffic, and other purposes which assist in an understanding of the public interest pertinent in the evaluation of a proposed development. The market analysis, if required, shall be provided by the landholder and the landholder shall provide any other economic data or analysis as may be reasonably requested by the Planning Commission.

6-206.7 **Bulk, Height and Building Spacing Requirements**

1. Building Coverage Ratio - Individual buildings located within a non-residential planned unit development district may exceed the maximum lot coverage ratio established for the base-zoning district wherein the non-residential planned unit development is located. However, in no instance shall the aggregate site coverage of all buildings located within the non-residential planned unit development district exceed the coverage provisions established for the base zoning district in which such site is located. When more than one underlying base zoning district exists within a non-residential planned unit development, building coverage ratios shall be calculated on a pro-rata basis. If land uses are proposed to be redistributed across the boundaries of underlying zoning districts, maximum floor areas shall be assigned to each component of the Master Development Plan and recorded by plat or equivalent instrument with the first phase of the Final Master Development Plan.

2. Maximum Building Height - The building height provisions established for the base zoning wherein the nonresidential planned unit development is located shall apply to all buildings located therein

3. Building Spacing and Yards
    a. Provisions Applicable Along Residential District Boundaries - Along all portions of a district boundary where a non-residential planned unit development adjoins residentially zoned land not included within the PUD District, all buildings, measured from the site boundary to the nearest building line, shall be a minimum of sixty (60) feet.
    b. Provisions Applicable Along all Other District Boundaries - Unless, otherwise, specified in the approved Master Development Plan for the nonresidential planned unit development all development located along district boundaries shall provide minimum yards and building separations specified for the base-zoning district. Within the non-residential planned unit development district, such yards shall be landscaped and maintained in a manner appropriate to a residential neighborhood for a distance of ten (10) feet from the lot line adjacent to any street. No such required landscaped area shall be used for off-street parking, loading or storage of any kind. No landscaping adjacent to a street shall be of a nature, which impairs visibility of or from approaching traffic, or creates potential hazards for pedestrians. Where the site plan indicates potential adverse effects of parking or other characteristics of a nonresidential activity, a wall, fence, or appropriate vegetative screening shall be required to be erected and maintained in such manner as to eliminate such effects or reduce them to an acceptable level. If there is to be parking on the premises after dark, such buffering shall at a minimum prevent lights from automobiles parked or maneuvering incidental to parking from shining across adjacent residential property below a height of five (5) feet.
    c. Provisions Applicable to Internal Portions of a Non-residential Planned Unit Development - Except as provided in Subparts a., and b., of this section, the minimum yard requirements of the base district shall be waived within nonresidential planned unit development districts. Minimum building separation shall be as provided herein. Along all sides of buildings where vehicular access is from a public street building shall be set back a minimum of sixty (60) feet. In cases where a building wall is not located directly adjacent to an interior side or rear lot line that is not adjacent to an alley, a yard with a minimum width or depth from the lot line of fifteen (15) feet or the distance required by applicable building and fire codes shall be provided. Permitted obstructions within such yards shall be limited to those listed in ARTICLE IV, Subsection 4-103.4, Subpart 1.

4. Outdoor Storage or Activities - Unless, otherwise, specified in the approved Master Development Plan for the non-residential planned unit development all outdoor storage facilities and outdoor sales activities are prohibited in any non-residential planned unit development district. This provision shall not be construed to exclude seasonal displays, short-term charitable events, of no more than sixty, (60) days duration, the outdoor display of new or used automotive vehicles or trailers for sale or rent, or the incidental display of goods or chattels for sale or rent in a non-residential planned unit development district, by an establishment having activities that occur principally within a building.

5. Lighting Provisions - No direct source of illumination, which may be located in a non-residential planned unit development, shall be visible beyond the boundary of such development. No illumination of any kind shall exceed one (1) foot-candle power at or beyond the boundary of such development and shall not flash or blink or appear to flash or blink, or shall be animated or appear to be animated.

6. Landscaping Provisions - The provisions of Subsection 6-205.2, (Landscaping and Buffering) shall apply fully within all non-residential planned unit development districts. In particular, off-street parking areas, service areas for loading and unloading other than passenger vehicles, and areas for storage and collection of refuse and garbage shall be screened.

6-300 AE - ADULT ENTERTAINMENT DISTRICTS

A. Purpose and Intent - The Adult Entertainment Overlay District is intended to provide adequate locational opportunities for adult entertainment establishments within the county while reasonably confining such uses to locations that minimize disruptions both to the general community and the specific land uses listed below.

B. Locational Standards - All adult entertainment establishments shall be located within the Adult Entertainment Overlay District. These districts may overlay the M-2, Heavy Manufacturing Districts only.

In addition, all adult entertainment establishments shall adhere to the following locational criteria and approval process within the overlay district:

1. No establishment shall be located within one thousand (1,000) feet of any church, school ground, college campus, day care, pre-school, mortuary, hospital, library or park;
2. The site shall be not less than one thousand (1,000) feet from any residential zoned property at the time of approval for an adult entertainment activity;
3. The site shall be not less than one thousand (1,000) feet from the site of any public amusement or entertainment activity, including, but not limited to, the following: arcades, motion picture theaters, bowling alleys, marinas, golf course, playgrounds, ice skating or roller skating rinks or arenas, zoos, community centers and similar amusements offered to the general public. "Amusement or entertainment activities" in this section shall not include adult oriented establishments, and shall not reduce the distance requirements otherwise dictated by this section;
4. The site shall be not less than one thousand (1,000) feet from any area devoted to public recreational activity;
5. The site shall be not less than one-half mile from any other adult entertainment business site;
6. Measurement shall be made from the nearest recorded property line of the lot on which the adult oriented establishment is situated to the nearest property line or boundary of the above mentioned uses, measuring a straight line on the Sullivan County Zoning Map; and
7. Maps showing existing land use and zoning within one-half mile of the proposed site should be submitted with an application for Use on Review approval along with site plans, surveys or other such special information as might reasonably be required by the Planning Commission for use in making a thorough evaluation of the proposal.
8. Such developments shall be subject to the minimum operational performance standards as required in Article VIII and all other bulk regulations as applicable.

6-400 HISTORIC OVERLAY DISTRICTS (H-1 AND H-2 ZONES)

6-401 INTENT: The Historic and Conservation Overlay District provisions are established in order that appropriate measures may be taken to ensure preservation of structures of historic value to Blountville, Piney Flats, or any other community, neighborhood, or individual properties that are considered of significant historical value, pursuant to the authority contained in Section 13-7-401 to 13-7-410 of the *Tennessee Code Annotated*. *(Amended by County Commission on May 18, 2009)* The general intent includes, among others, the following specific purposes:

A. To preserve and protect the historical and/or architectural value of buildings, other structures, or historically significant areas;
B. To regulate exterior design, arrangement, texture, and materials proposed to be used within the historic district to ensure compatibility
C. To create an aesthetic appearance, which complements the historic buildings or other structures;
D. To stabilize and improve property values;
E. To foster civic beauty;
F. To strengthen the local economy; and
G. To promote the use of Historic/Conservation Overlay Districts for the education, pleasure, and welfare of the present and future citizens of Sullivan County.

6-402 CREATION OF HISTORIC and CONSERVATION OVERLAY DISTRICTS:

The Historic and Conservation Overlay Districts boundaries shall be shown on the zoning map or on special overlays thereto and are made a part of this ordinance and noted by name on said map. Any Historic or Conservation Overlay District shall be created by the Sullivan County Board of Commissioners upon the recommendations of the Sullivan County Regional Planning Commission, the Sullivan County Regional Historic Zoning Commission and if required, the Kingsport Regional Planning Commission, and/or the Bristol Regional Planning Commission. Within a Historic District or Conservation Overlay District, no structure shall be constructed, relocated, demolished, or altered unless the action complies with the requirements set forth in this Code and the Design Guidelines as published separately.

6- 403 DEFINITION OF HISTORIC OVERLAY DISTRICT:

A Historic Overlay District shall be defined as a geographic area which possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects which are united by past events or aesthetically by plan or physical development, and which meets one (1) or more of the following criteria:

6-403.1 Is a associated with an event which has made a significant contribution to local, state, or national history; or

6-403.2 Includes structures associated with the lives of persons significant in local, state, or national history; or

6-403.3 Contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or someone that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

6-403.4 Yielded or may be likely to yield archaeological information important in history or prehistory; or

6-403.5 Is listed in the National Register of Historic Places.

6-404 CREATION OF A HISTORIC ZONING COMMISSION:

A Historic Zoning Commission is hereby created for Sullivan County, Tennessee, consisting of five members who shall have been residents of Sullivan County for not less than 3 years immediately prior to appointment and who shall continue to be so eligible as long as they serve.

6-404.1 *Membership on the Historic Zoning Commission*:
Membership on the Historic Zoning Commission shall be composed of at least the following members: a) one architect who is a member, or meets membership requirements, of the American Institute of Architects, b) one member of the Sullivan County Regional Planning Commission, c) one member with knowledge of the history of Sullivan County and Blountville, and d) remaining members selected from the community at large.

6-404.2 *Appointment to the Historic Zoning Commission*:
Members of the Historic Zoning Commission shall be appointed by the Sullivan County Board of Commissioners.

6-404.3 *Terms of Appointment, Removal, and Vacancies*:
The members of the Historic Zoning Commission shall serve 5-year terms. All members shall serve without compensation and may be removed from membership by the Board of Commissioners for just cause. Any vacancies on the Historic Zoning Commission shall be filled in the manner herein provided for the appointment of such member. Such appointment shall be for the duration of the expired term.

6-404.4 *Election of Officers, Rules, and Meetings*:
The Historic Zoning Commission shall elect from its members a Chairman and Vice-Chairman. The Commission shall adopt rules of procedure and shall keep records of application and action thereon, which shall be public record. Meetings of the Commission shall be held at the call of the Chairman and at such times as two or more members of the Commission may determine. All meetings shall be open to the public. At least three members of the Commission shall constitute a quorum for the transaction of its business. Actions and recommendations of the Commission shall be by majority vote. The Secretary of the Historic Zoning Commission, who shall be the Planning Director or designee, shall conduct all official correspondence, keep the minutes and records of the Commission, give adequate public notice of meetings, keep a file on each item which comes before the Commission, and attend to such other duties as are normally the function of a Secretary.

6-404.5 *Conflict of Interest*:
When any member of the Historic Zoning Commission shall have a conflict of interest in a matter before the Commission, it is expected that he or she declare that conflict of interest prior to considering whether to vote upon the matter.

6-405 POWERS AND DUTIES OF THE HISTORIC ZONING COMMISSION:

6-405.1 The Historic Zoning Commission shall review applications regarding the creation of an Historic District and Conservation Overlay Districts. The review of such applications shall be in accordance with the criteria set forth in the Definition of Historic/Conservation Overlay District in this Article. The Commission shall furnish to the Planning Commission, in writing, its recommendations regarding the creation of any Historic and/or Conservation Overlay District.

6-405.2 The Historic Zoning Commission shall adopt for each such proposed District a set of review guidelines, which it will apply in ruling upon the granting or denial of a Certificate of Appropriateness as provided for in this ordinance. Such review guidelines shall be consistent with the purposes of this ordinance and with regulations and standards adopted by the Secretary of the Interior pursuant to the *National Historic Preservation Act of 1966*, as amended, applicable to the construction, alteration, rehabilitation, relocation or demolition of any building, structure, or other improvement situated within a Historic District. Reasonable public notice and opportunity for public comment, by public hearing or otherwise, shall be required before the adoption of any such review guidelines.

6-405.3 It shall further be the duty of the Historic Zoning Commission to make the following determinations with respect to the Historic District and/or Conservation District when applicable:

A. Appropriateness of altering or demolishing any building or structure within the Historic District. The Commission may require interior and exterior photographs, architecturally measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure, such photographs, drawings, etc. shall be at the expense of the Commission.

B. Appropriateness of exterior architectural features, including signs and other exterior fixtures, of any new buildings and structures to be constructed within the Historic District.

C. Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the Historic District and.

D. Appropriateness of the general exterior design, arrangement, texture, material, of the building or other structure in question and the relation of such factors to similar features of buildings in

the immediate surroundings and entire district. However, the Historic Zoning Commission shall not consider interior arrangement or design.

E. That all work to be undertaken in the Historic District complies with the applicable review guidelines, with primary consideration to be given to:

1) historical or architectural value of the present structure;
2) the relationship of the exterior architectural features of such structure to the rest of the structures, to the surrounding area, and to the character of the District;
3) the general compatibility of exterior design, arrangement, texture, and materials proposed to be used; and
4) to any other factor, including aesthetic, which is reasonably related to the purpose of this Article.

6-405.4 Right of Entry Upon Land:
The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.

6-406 SUBMITTAL OF APPLICATION TO THE HISTORIC ZONING COMMISSION:
Prior to issuance of any building permit for the construction, alteration, repair, demolition, or relocation of a building or other structure within any *Historic and/or Conservation Overlay District*, the applicant shall first receive a Certificate of Appropriateness from the Historic Zoning Commission. Application for such certificate shall be made by the applicant to the Secretary of the Historic Zoning Commission and shall include all plans, elevations, or other information as may be required to determine the appropriateness of the proposed actions.

6-407 MEETINGS ON APPLICATION:
The Historic Zoning Commission shall meet within fifteen (15) days after notification by the Secretary of the Historic Zoning Commission of the filing of an application relating to the Historic or Conservation Overlay District, or at its next regularly schedule monthly meeting per official By-Laws.

6-408 APPROVAL BY THE HISTORIC ZONING COMMISSION:
Upon approval of any application, the Historic Zoning Commission shall forthwith transmit a report to the Planning & Codes Director, stating the basis upon which such approval was made and cause a Certificate of Appropriateness to be issued. The provisions of the Certificate of Appropriateness, and any conditions attached thereto, shall become a part of the Building Permit upon issuance. Upon failure of the Historic Zoning Commission to take final action with thirty (30) days after receipt of the application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit. When a Certificate of Appropriateness has been issued, a copy thereof shall be transmitted to the Building Commissioner and/or Planning & Codes Director, who shall from time to time inspect the construction or alteration of the exterior approved by such certificate, and report to the Historic Zoning Commission any work not in accordance with such certificate before issuing a certificate of occupancy.

6-409 DISAPPROVAL BY THE HISTORIC ZONING COMMISSION:
In the case of disapproval of any application, the Historic Zoning Commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such disapproval and a copy of the written statement of reasons therefore shall also be transmitted to the Planning & Codes Director.

6-410 APPROVAL OF REMOVAL OR DEMOLITION:
In the event an application for removal or demolition of a building or other structure within an *Historic or Conservation Overlay District* is submitted or such demolition is required, the governmental agency receiving such request or initiating such action shall transmit a copy thereof to the Historic Zoning Commission and said Commission shall have a period of thirty (30) days from the date the application was filed to act upon the application. Upon failure of the Historic Zoning Commission to take final action within thirty (30) days after the filing of the application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.

6-411 DETERMINATION OF ECONOMIC HARDSHIP:

Any applicant denied a Certificate of Appropriateness by the Commission within thirty (30) days thereafter and any applicant seeking demolition of a landmark or contributing structure within a district may make application for a Certificate of Economic Hardship from the Commission.

6-411.1 The applicant shall submit all the following information by affidavit for an application to be considered:

A. The assessed value of the property and/or the structure. In the case of a demolition, two (2) recent assessments;
B. For the previous two (2) years, the real property taxes paid;
C. The amount paid for the property by the owner, the date of purchase, the name of the party from whom it was purchased, and a description of the relationship, if any, between the current owner and the previous owner;
D. The current balance of any mortgage or any other financing secured by the property owner and the annual debt service, if any, for the previous two (2) years;
E. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with purchase, offerings for sale, financing, or ownership of the property, or state that none were obtained;
F. All listings of the property for sale or rent, price asked and offers received, if any, within the previous four (4) years, or state that none were obtained;
G. All studies commissioned by the owners as to profitable renovation, rehabilitation, or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained;
H. For income producing property, itemized income and expense statements from the property for the previous two (2) years;
I. Estimate of the cost of the proposed alteration, construction, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for it to approve a Certificate of Appropriateness; and
J. Form of ownership or operation of the property, whether sole proprietorship, for-profit, or not-for-profit corporation, limited partnership, joint venture, or other.

6-411.2 In the event that the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

6-411.3 Not withstanding the submission of the above information, the Commission may require additional evidence.

6-411.4 The Commission shall hold a public hearing on the application within thirty (30) days following receipt of the completed application form.

6-411.5 The determination by the Commission shall be made within forty-five (45) days following the close of the public hearing and submission of all information, documentation, or evidence requested by the Commission. The determination shall be accompanied by findings of fact.

6-411.6 The Commission shall not grant approval of any application involving demolition, unless the Commission determines, upon clear and convincing evidence that one or more of the following circumstances applies:

A. The structure is not subject to this article; or
B. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the structure. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the structure. Where the condition of the structure is not the result of the acts of neglect of the owner or his predecessors in title occurring in whole or in part after August 1, 1988.
C. The Commission deems that the historical structure is beyond repair and the owner will comply with the historical districts guidelines for new construction.

6-411.7 If the determination of the Commission is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within five (5) business days. The notice shall include a copy of the findings of fact and report.

6-412 **APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION:** Appeals from any decision of the Historic Zoning Commission may be taken to a court of competent jurisdiction as provided for by law.

** NOTE: Nothing in this article shall be interpreted as giving the Historic Zoning Commission any authority to consider, review, examine, or control the use of property classified as a Historic or Conservation Overlay district. Use shall be controlled solely by the base zoning of such property prior to its classification as a Historic or Conservation Overlay District or as may be rezoned by subsequent amendments.

6-500 AIRPORT OVERLAY ZONE

All building plans within the adopted Airport Overlay Zone shall be limited in height according to the Tri-Cities Regional Airport Land Use and Development Plan. The area contained within this overlay zone shall be illustrated on the official zoning map.

ARTICLE VII

PARKING AND LOADING REGULATIONS

SECTIONS

7-101 PURPOSES AND APPLICABILITY
7-102 GENERAL PROVISIONS
7-103 OFF-STREET PARKING SPACE REQUIREMENTS
7-104 OFF-STREET PARKING LOT DESIGN STANDARDS
7-105 OFF-STREET LOADING

7-101 PURPOSES AND APPLICABILITY

7-101.1 Purposes - The following regulations on accessory off-street parking spaces are adopted in order to provide needed spaces off the streets for parking in connection with all activities which may be located in the Planning Jurisdiction to reduce traffic congestion resulting from use of the streets as places of storage for automobiles, to protect the character of neighborhoods, to provide for a higher standard of development within the area and thus promote and protect the public health, safety, and general welfare.

7-101.2 Applicability

1. General - For every use, activity, or structure permitted by this resolution and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customers, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion in combination with the previously existing uses, structure, or activity.

2. New and Complying Development - New development occurring after the effective date of this resolution, and development existing on the effective date of this resolution and complying with the number of off-street parking spaces required by this article shall be subject to the following provisions.
    a. Every use of a building or land hereafter established shall provide the minimum off-street parking and loading spaces as required by this article.
    b. The number of parking and loading spaces required by this article may be reduced when the land use or floor area of a building is changed or reduced to a use or floor area for which fewer parking or loading spaces are required.
    c. When a building is expanded or a land use is changed so as to increase the number of spaces required, the number of such spaces shall be increased.

3. Existing Noncomplying Development - Developments with legally noncomplying parking and loading areas shall be subject to the following provisions.
    a. No Reduction Below Requirements - Existing parking and loading spaces shall not be reduced below the minimum required by this article.
    b. Redevelopment not Increasing Parking Requirements - Zoning permits and certification of zoning compliance may be issued for a change of use or remodeling or structural alterations in developments containing legally noncomplying parking and loading areas, without requiring compliance with this article, provided that such redevelopment does not result in an increase in the number of required parking or loading spaces.
    c. Redevelopment Increasing Parking Requirements - Developments with legally noncomplying parking and loading areas shall be subject to the following provisions.
        (1) Minor Change - Any building expansion or change of use that results in an increase of twenty-five (25) percent or less over the number of parking spaces that would be required under this article for the lot prior to the redevelopment activity shall be required to provide only the additional parking or loading spaces in excess of the number that would be required under this article for the previous development. Only the expanded portion of the parking or loading area shall be required to comply with the provisions of this article.

(2) Major Change - Any building expansion or change of use that results in an increase of more than twenty-five (25) percent over the number of parking spaces that would be required under this article for the lot prior to the redevelopment activity shall be required to bring the entire development on the lot into full compliance with all of the provisions of this article.

7-102 GENERAL PROVISIONS

7-102.1 Use of Required Parking as Commercial or Public Lot Prohibited in Agricultural and Residential Zoning Districts - No permanent parking facilities for commercial purposes shall be permitted within any agricultural or residential district. No parking garages or other permanent parking shelters shall be permitted within any agricultural or residential district.

7-102.2 Location of Parking or Loading Space - All required off-street parking or loading spaces shall be provided on the same parcel of land occupied by the use or building to which it is appurtenant: provided however, that when there are, in the judgment of the Planning Commission, practical difficulties in satisfying the requirement for parking space and/or if the public safety or convenience would be better served by another location, the Planning Commission may authorize as follows an alternative location for any portion of the required parking for a nonresidential use subject to the following conditions.

1. Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession, either by deed, by easement, or by long-term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provided that the owner shall be bound by covenants filed on record in the Office of the County Register of Deeds, requiring the owner and his or her heirs and assigns, as well as subsequent owners, heirs, or assigns, to maintain the required number of off-street parking spaces during the existence of such principal use.
2. Pedestrian access shall be available within a walking distance of not more than five hundred (500) feet measured from the nearest point of public access to the building to the nearest part of the accessory parking area.
3. Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood, or hazard to pedestrians or vehicular traffic.
4. Such accessory parking facility shall be on an adjacent parcel of the use or building and meet the above requirements in order to meet the required parking standards for the intended use.

7-102.3 Zoning of Accessory Parking - All accessory parking facilities, whether provided in fulfillment of or in excess of the requirements of this Article, and whether located on the same or on a different lot from the principal use as provided in the preceding paragraph, shall be located on the property zoned within the same or a less restrictive zoning district as the principal use served by the parking. In other words, any off-site parking facility may be located only in a commercial or manufacturing district to serve the use in question.

7-012.4 Joint Parking Facilities - Off-Street Parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:

1. A legally sufficient written agreement, which has been notarized, assuring the perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned, filed with and made part of the application for a building permit.
2. Up to twenty-five (25) percent of the parking spaces required for a theater or other place of evening entertainment, for a church, for multi-family dwelling units, or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours, if specifically approved by the Planning Commission; provided, however, that written agreement assuring the retention for such purpose shall be properly drawn and executed by the parties concerned, filed and made part of the application for a building permit. Such approval may be rescinded by the Planning Commission and additional parking shall be obtained by the owners in the event that the Commission determines that such joint use is resulting in a public nuisance or otherwise adversely affecting the public health, safety, or welfare.

7-102.5 Variance in the Required Number of Parking and Loading Spaces (Overflow Spaces) - The number of parking and loading spaces to be constructed may be less than the number of spaces required herein in the event that the following conditions are met to the satisfaction of the Planning Commission:

1. Evidence is submitted firmly documenting that the special nature of the use, activity, or building proposed requires less parking area or spaces than required by this chapter for the same.

2. The Site Plan submitted to and approved by the Planning Commission in accordance with ARTICLE XII, Subsection 12-102.3, Site Plan Requirements, indicates that the location and layout of that portion of the parking requirement deemed unnecessary can and will be constructed accordingly in the event that the Planning Commission determines at any time that all or any portion of this parking is necessary in the interest of the public health, safety, and welfare.
3. In no event shall that portion of the required parking or loading, which is so designated, but not constructed as provided herein, be counted as open space or other non-paved area required by other provisions of this resolution.
4. If the Planning Commission makes an exception to the construction of some of the required parking spaces, those exempted spaces shall be reserved in a pervious surface area. Such area shall be graded, cleared and maintained in a dustless surface and be accessible to vehicles in the event of overflow. Such area shall not be sold, transferred or used for any other permanent use.

7-103 OFF-STREET PARKING SPACE REQUIREMENTS

7-103.1 Computing Parking Requirements - The number of parking spaces required for a specific development proposal shall be based on the requirements listed in Subsection 7-103.2, (Number of Parking Spaces Required) and the following provisions.

1. Unlisted Uses - Upon receiving a development application for a use not specifically listed in this section, the Building Commissioner shall apply the parking requirements specified for a listed use most similar to the use for which said permit is requested.
2. Multiple Uses - Lots containing more than one (1) use shall provide parking in an amount equal to the total of the requirements for all uses, unless a shared parking arrangement is approved pursuant to Subsection 7-012.4 (Joint Parking Facilities).
3. Fractions - When measurements determining the number of required spaces result in fractions, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be rounded upward to the next highest full number.
4. Floor Area - For the purpose of computing parking requirements that are based on the amount of square footage in buildings, calculations shall be on a gross floor area basis, unless, otherwise, specifically indicated.

7-103.2 Number of Parking Spaces Required - The number of off-street parking spaces shall be provided for the specific unit of measure for the following specified uses within the activity types indicated.

1. Residential Activities

a. Permanent

(1) Single-Family Detached, Two-Family Detached Dwellings
Two (2) spaces per dwelling unit.

(2) Multi-Family Dwelling and Single-Family Attached (Three (3) or more)
One and one-half (1 1/2) spaces for each dwelling unit with one (1) bedroom;
two (2) spaces for each dwelling unit with two (2) or more bedrooms.

(3) Manufactured Homes
Two (2) spaces per manufactured home.

(4) Where Occupancy Is to Be Primarily Elderly Persons over the Age of Sixty (60)
The number of developed spaces may be reduced to one (1) space per unit.
There must be room on the lot to provide one and one-half (1 1/2) spaces in the future.

b. Semi-Transient/Residential

(1) Boarding or Rooming House:
One (1) space for each dwelling or rooming unit,
and one (1) space per each two (2) employees.

2. Community Facility Activities

Activity Type	Unit of Measurement
Administrative Services	One (1) space for each three hundred (300) square feet of gross floor area, plus one (1) space for each three (3) employees.
Child Care Facilities	Child Care Center: One (1) space per five (5) persons accommodated for the first fifty (50) persons, plus one (1) space for each additional ten (10) persons accommodated over fifty (50);

	Family Child Care and Group Child Care Homes: One (1) space for each nonresident or non-family member employee (such spaces are in addition to spaces required for the dwelling).
Community Assembly	One (1) space for each two (2) seats or one-half (1/2) of capacity in persons whichever is greater.
Cultural and Recreation Services	Art Galleries, Libraries, Museums, Zoological and Botanical Gardens, Planetariums and Aquariums: One (1) space for each eight hundred (800) square feet of gross floor area. Swimming Pools: Thirty (30) percent of capacity. Parks, Playgrounds and Playfields: Ten (10) spaces for each acre of land devoted to recreation, plus one (1) space for each four (4)-spectator seats. Recreation Centers and Gymnasiums: Fifty (50) percent of the capacity, plus one (1) space for each two (2) employees.
Educational Facilities	Kindergarten and Nursery: One (1) space for each employee, plus one (1) space for each four (4) students. Elementary and Middle Schools, Grades 1-7: Two (2) spaces for each classroom or one (1) space for each five (5) seats in the auditorium or one (1) space for each four (4) students, teachers, and employees, whichever is greater. High School, Grades 8-12: Four (4) spaces for each classroom or one (1) space for each given (5) seats in the auditorium or one (1) space for each four (4) students, teachers, and employees, whichever is greater. Vocational or Trade Schools: One (1) space for each one thousand (1,000) square feet of gross floor area, plus one (1) space for each six (6) seats in any associated auditorium.
Essential Public Transport, Communication and Utility Services	Two (2) spaces per facility.
Extensive Impact	Airports, Air Cargo Terminals, Heliports, or Aeronautical Devices: One (1) space for each two (2) employees, plus one (1) space for every one hundred (100) square feet of gross floor area. Correctional or Detention Institutions: One (1) space for each two (2) employees, plus one (1) space for each patrol car. Bus, and Transit Terminals: One (1) space for each one hundred (100) square feet of waiting room. Railroad Yards and Other Transportation Equipment Marshaling and Storage Yards: One (1) space for each two (2) employees. Stadiums, Sports Arenas, Auditoriums, and Bandstands: One (1) space for each four (4) seats. Water and Sewage Treatment Plants: One (1) space for each employee. All Other Activities: (See Note 1.)

Health Care Facilities	Centers for Observation or Rehabilitation, Convalescent Homes: One (1) space for each four (4) beds, plus one (1) space for each one thousand (1,000) square feet of gross floor area. Hospitals: One and one-half (1 1/2) spaces for each bed. Medical or Dental Clinics: Five (5) spaces for each staff member or doctor or dentist or two (2) spaces for each treatment or examination room, whichever is greater.
Intermediate Impact	Colleges, Junior Colleges and Universities: One (1) space for each one thousand (1,000) square feet of gross floor area suited for academic purposes, plus one (1) space for each six (6) seats in an auditorium, arena, or stadium on the same lot. All Other Activities: (See Note 1.)
Religious Facilities	All Activity Types: One (1) space for each three (3) seats.
Special Personal and Group Care	Associations for Physically or Mentally Handicapped: One (1) space for each employee. Day Care Facilities for Elderly Persons: One (1) space for each employee, plus one (1) space for each four (4) elderly persons receiving care. Day Care Centers: One (1) space for each employee, plus one (1) space for each five (5) children. Nursing Homes: One (1) space for each employee, plus one (1) space for each two (2) patients.

3. Commercial Activities

a. Uses Located on Freestanding Sites

The provisions of this subsection shall apply to uses, which are located on individual lots of record where no parking is shared with any other use or activity. One (1) parking space is required for each unit of gross floor area indicated.

ACTIVITY TYPE	GROSS FLOOR AREA (Sq. ft.)
(1) Adult Entertainment	One (1) space per (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used.
(2) Animal Care & Veterinarian Services	300
(3) Automotive and Marine Craft Sales, Service and Repair	500
(4) Banking, Financial, Insurance and Real Estate Services	200
(5) Convenience Retail Sales and Services	200
(6) Entertainment and Amusement Services - Limited:	
(a) Art Galleries (Commercial)	400
(b) Motion Picture Theaters	One (1) space per (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used.

(c)	Theaters (Legitimate)	One (1) space per (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used.
(d)	Bowling Alleys and Billiard Parlors	(For (d) through (l), See Note 1.)
(e)	Coin Operated Amusement	
(f)	Commercial Sporting Facilities	
(g)	Dance, Studios and Schools	
(h)	Exhibition Halls and Commercial Auditoriums	
(i)	Gardens (Botanical and Zoological	
(j)	Marinas, Boat Docks and Boat Rental	
(k)	Recording and Motion Picture Production Studios	
(l)	Theatrical Producers, Band, Orchestras and Entertainers	
(7)	*General Business and Communications Services*	400
(8)	*General Retail Sales and Services*	250
(9)	*Group Assembly and Outdoor Recreation*	One (1) space per four (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used or as may be determined by the Planning Commission. (See Note 1.)
(10)	*Outdoor Material and Equipment Sales and Repair Yards*	1,000
(11)	*Professional Services - Medical*	300
(12)	*Professional Services - Non-medical*	400
(13)	*Restaurant, Full Service*	150
(14)	*Restaurant, Fast Food*	1 space for each employee on maximum shift <u>and</u> 1 space for every 2 seats in dine-in or 1 space for each bay for drive-in or 4 extra spaces for drive-thru type restaurants (see section 7-107)
(15)	*Scrap Operations*	**(See Note below)**
(16)	*Transient Habitation*	One (1) space for each unit in a building serving transient guests, except that the Planning Commission may permit a lesser number of spaces where it is adequately shown that most of the guests do not use private automobiles

		for or during their stay, but in no case shall there be less than one (1) space for each two (2) units within the building serving transient guests.
(17)	*Warehousing, Goods Transport and Storage*	One (1) space per three thousand (3,000) square feet of gross floor area, plus one (1) space per seven thousand (7,000) square feet of open storage area.
(18)	*Wholesale Sales*	One (1) space per one thousand (1,000) square feet of open storage or gross floor area devoted to storage, plus one (1) space per three hundred (300) square feet of office and display area.

b. Uses Located Within Commercial Complexes

Where two (2) or more commercial activities are grouped together on a single site or in any other configuration which involves the use of shared or common parking facilities, the parking requirements for such uses shall be calculated as provided herein.

SHOPPING CENTERS

Size of Complex	Number of Spaces Required
0 - 400,000 Square Feet	Four (4) spaces per one thousand (1,000) square feet, gross leasable area
400,000 - 600,000 Square Feet	Four and one-half (4 1/2) spaces per one thousand (1,000) square feet, gross leasable area
600,000 - 1,000,000 Square Feet	Five (5) spaces per one thousand (1,000) square feet, gross leasable area
1,000,000- Square Feet	Five and one-half (5 1/2) spaces per one thousand (1,000) square feet, gross leasable area

ALL OFFICE COMPLEXES

Four (4) spaces per one thousand (1,000) square feet of gross leasable area

4. Manufacturing Activities

One (1) space for each fifteen hundred (1,500) square feet of gross floor area or one (1) space for each three (3) employees during the largest shift, whichever is greater.

NOTE: *Due to the extreme variability of parking requirements for certain uses, the requirements for all new uses not listed above shall be determined by the Planning Commission as part of the review process of a Site Development Plan based upon pertinent factors with each individual situation. In the case of existing structures, the Building Commissioner shall determine the parking requirements.*

7-104 OFF-STREET PARKING LOT DESIGN STANDARDS

7-104.1 Submission of Site Plan - Any application for a building permit, or for a conditional use permit where no building permit is necessary that required five (5) or more accessory off-street parking spaces to be provided on a zone lot, shall be accompanied by a site plan drawn to scale and fully dimensioned. Said plan shall show the location design and layout of such parking facilities and shall be approved by the Planning Commission. A site plan drawn to meet the requirements ARTICLE XII, Subsection 12-102.3, Site Plan Requirements, will comply.

7-104.2 Design of Parking Stalls and Maneuvering Spaces

1. Dimensions of Parking Spaces - Except as, otherwise, provided by Subpart 2, of this section, the minimum dimensions of parking stalls and maneuvering spaces shall be as shown on TABLE 7-104.2.

2. Parallel Parking - Parallel parking spaces shall conform to the standards in TABLE 7-104.2.

3. Paving Standards - All parking spaces and access drives of parking areas shall be surfaced with asphalt or concrete, or other hard-surfaced dustless materials, and shall be constructed to provide for adequate drainage. Any site operator, owner or developer acting as the agent of the property may apply to the

Planning Commission for an assurance performance bond to be posted for minor site improvements only if special, unforeseeable circumstances interfere with the timely completion of the project as approved by a site plan. Performance guarantees shall be accepted pursuant to the same standards and procedures set forth in the Subdivision Regulations for Sullivan County – Section 4B. The department may allow a signed and notarized contract between the property owner/developer and the contractor, such as a paving or landscaping company, which will allow the completion of paving and/or landscaping to be completed by the next paving or planting season. The Planning Commission may forfeit all paving, if it is not conducive to the type of business being operated or to prevent water run-off on to adjoining properties *(amended August 15, 2005).*

4. Marking - Parking areas spaces shall delineate each space by single or double stripes on each side of the space. Except for parallel parking spaces, stall width shall be measured from the centerline of one stripe to the centerline of the other stripe.

7-104.3 **Handicapped Parking** - If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces (complying with the Department of Justice 28 CFR Part 36, ADA Standards for Accessible Design) shall be provided in each such parking area in conformance with the table herein. Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

1. Number of Handicapped Spaces - The minimum number of handicapped spaces to be provided shall be a portion of the total number of required parking spaces as determined from the following schedule. Parking spaces reserved for the handicapped shall be counted toward fulfilling the parking requirement.

2. Minimum Dimensions - All spaces reserved for handicapped parking shall be at least eight (8) feet in width, measured perpendicular to the angle of parking and twenty (20) feet in depth. Furthermore, such spaces must be adjacent to an access aisle measuring at least five (5) feet wide by twenty (20) feet deep. Two handicapped reserved parking stalls may share a common access aisle.

3. Location of Spaces - Required handicapped spaces shall be located in close proximity to a main building entrance, and shall be so located that occupants of vehicles located in these spaces can go to the building entrance on a path at least three (3) feet wide and unobstructed by bumpers, curbs or other obstacles to wheelchairs and without going behind parked vehicles.

4. Signs and Markings - Required handicapped spaces shall be marked with the proper signs and pavement markings consistent with the Federal American Disabilities Act. The sign face must be eighteen (18) inches tall by twelve (12) inches wide and placed directly in front of the reserved parking stall. The height of the sign structure shall conform to one of the following two methods:
    a. If the sign is located behind a pedestrian path, such sign shall be sixty (60) inches or five (5) feet high. The height of the sign is measured from grade to the bottom of the sign.
    b. If the sign is located on the pedestrian path, such sign height shall be eighty-four (84) inches or seven (7) feet high.

ILLUSTRATION 7-104.2
PARKING SPACE AND AISLE DIMENSIONS
(corrections adjusted August 2009 – See diagrams following Appendices)

DIMENSIONS IN FEET

Parking Angle	*Stall Width*	*Stall Depth Perpendicular*	*Wall Aisle Length*	*Interlock Module Width*	*Module*
90-Degree Parking Angle, Two-Way Aisle					
90	9.00'	19.0'	24.0	62.0	62.0
75-Degree Parking Angle, One-Way Aisle					
75	9.0'	19.0'	22.0	63.0	61.0
60-Degree Parking Angle, Two-Way Aisle					
60	9.0'	19.0'	22.0	64.0	59.5
45-Degree Parking Angle, One-Way Aisle					
45	9.0'	19.0'	15.0	42.0	48.5
30-Degree Parking Angle, One-Way Aisle					
30	9.0'	19.0'	20.0	62.0	57.5
Parallel Parking - One-Way Aisle					
0	9.0'	22.0'	15.0	24.0	24.0

ILLUSTRATION 7-104.3
ADA ACCESSIBLE (HANDICAPPED) PARKING REQUIREMENTS

DESIGN DETAILS FOR HANDICAPPED PARKING SPACES

Total Parking Spaces	*Minimum Number of Handicapped Spaces*
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 and over	20, plus 1 for each 100 over 1000

7-105 OFF-STREET LOADING

7-105.1 Computing Loading Requirements - The number of loading spaces required for a specific development proposal shall be based on the requirements listed in Subsection 7-105.2 (Off-Street Loading Space Requirements), and the following provisions.

1. Unlisted Uses - Upon receiving a development application for a use not specifically listed in this section, the Building Commissioner shall apply the loading requirements specified for a listed use most similar to the use for which said permit is requested.
2. Multiple Uses in a Building - When a building contains more than one (1) use, and where the floor area used for each use is below the minimum for required loading spaces but the aggregate total floor area is greater than the minimum, then off-street loading space shall be provided as if the entire building was used for that use in the building for which the most spaces are required.
3. Fractions - When measurements determining the number of required additional loading spaces beyond the floor area ranges given in Subsection 7-105.2, (Off-Street Loading Spaces Requirements) result in fractions, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be rounded upward to the next highest full number.

7-105.2 **Off-Street Loading Space Requirements** - The minimum number of off-street loading spaces to be provided for a building shall be as indicated in 7-105.2A.

ILLUSTRATION 7-105.2A
REQUIRED OFF-STREET LOADING SPACES

Activity Type/Land Use	Gross Floor Area (Square Feet)	Loading Spaces
Outside Material and	Less than 2,000	None
Equipment Sales:	2,001 to 9,000	1
Restaurant, Full Service:	9,001 to 25,000	2
Restaurant, Fast Food:	25,001 to 40,000	3
Warehousing, Goods	40,001 to 60,000	4
Transport and Storage:	60,001 to 90,000	5
	Each Additional 80,000	1
All Manufacturing	Less than 5,000	None
	5,001 to 20,000	1
	20,001 to 40,000	2
	40,001 to 60,000	3
	40,001 to 90,000	4
	Each Additional 80,000	1
Automotive and Marine	Less than 9,000	None
Craft Sales, Service and	9,001 to 25,000	1
Repair 25,001	to 40,000	2
	40,001 to 60,000	3
	60,001 to 90,000	4
	Each Additional 80,000	1
Convenience Retail Sales	Less than 9,000	None
and Services: General	9,001 to 25,000	1
Retail Sales and Services:	25,001 to 40,000	2
Group Assembly and	40,001 to 60,000	3
Commercial Outdoor	60,001 to 90,000	4
Recreation	Each Additional 150,000	1
Health Care Facilities:	Less than 9,000	None
Professional Services -	9,001 to 90,000	1
Medical: Professional	90,001 to 300,000	2
Services - Non-medical	Each Additional 300,000	1
Community Assembly:	Less than 20,000	None
Transient Habitation:	20,001 to 90,000	1
Community Assembly	90,001 to 300,000	2
	Each Additional 300,000	1
Scrap Operation	Less than 25,000	None
	25,001 to 60,000	1
	60,001 to 90,000	2
	Each Additional 90,000	1

7-105.3 **Loading Area Design Standards**

1. Size of Require Berths - The minimum required dimensions of loading spaces open or enclosed, shall be twelve (12) feet in width by fifty-five (55) feet in length, with a minimum vertical clearance of fifteen (15) feet. Where tractor-trailer units will be using the facility, the minimum length shall be sixty-five (65) feet.
2. Paving Standards - All open off-street loading spaces shall be surfaced with asphalt or concrete, or other hard-surfaced dustless materials, and shall be constructed to provide for adequate drainage.

3. Use of Loading Area - Required off-street loading spaces and associated aisles and maneuvering areas shall be used for vehicle loading only. No sales, storage, display of merchandise (including automobiles), repair work or dismantling shall be permitted in such areas.
4. Layout - All off-street loading spaces shall comply with the following design requirements.
    a. No off-street loading space shall be located within the right-of-way of a public street. Any loading dock or door shall be set back far enough from the right-of-way so that no portion of the right-of-way is occupied by trucks or other vehicles while loading or unloading.
    b. The location of the loading area shall not interfere with the free circulation of vehicles in the off-street parking area. Where loading areas are directly adjacent to or integrated with an off-street parking lot, the County may require installation of physical barriers or other means of separating loading areas from parking areas and pedestrian traffic.
    c. No loading space shall be located so as to block access by emergency vehicles.

7-106 ACCESS CONTROL - In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion by reducing the points of contact, the following regulations shall apply:

7-106.1 A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty (30) feet in width for agricultural, residential, neighborhood or central business use and shall not exceed forty (40) feet in width for any general, planned commercial, religious or manufacturing districts or use. Any use which fronts on an arterial or collector road may have an access width not to exceed forty (40) feet. Any use which shares an access point with an adjoining property may have a total width not to exceed forty (40) feet. Such width shall be determined at the front property line of said access. No new development open to the general public shall be allowed along a private easement; rather it shall have direct public access and meet the road frontage standards in Article VIII.

7-106.2 There shall be no more than two (2) points of access to any one (1) public street on a lot where the frontage is more than 100 feet in width. 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.

# of Public Roads Fronting Site	# of Vehicular Access Points/Road	Length of Public Road Frontage
1	1	Less than 100 feet
2	1	Less than 100 feet
3	1	Less than 100 feet
4	1	Less than 100 feet
1	2	Greater than 100 feet
2	2	Greater than 100 feet
3	1	Greater than 100 feet
4	1	Greater than 100 feet

7-106.3 No point of access shall be allowed within ten (10) feet of the public right-of-way intersection.

7-106.4 Where sidewalks exist and/or required, the area existing between the street and an interior parking space or driveway parallel to the street shall have a curb at least six (6) inches in height and six (6) inches in width separating the parking area from the sidewalk to prevent encroachment of vehicles onto the sidewalk area.

7-106.5 No curbs on county streets or rights-of-way shall be cut or altered without written approval of the County Road Commissioner and/or his designee *(see department for application form).*

7-106.6 Cases requiring variances relative to this action, and hardships not caused by the property owner shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street parking or storage shall be permitted where the arrangement would require that vehicles back directly into a public street.

7-106.7 Access control on property abutting State or Federal highways shall be governed by official regulations of the Tennessee Department of Transportation, Division of Highways or the provisions of this resolution, whichever is more restrictive.

7-106.8 Unless access point (driveway connection) is shared with an adjoining property as noted on an approved site plan, approved subdivision plat, and/or recorded easement agreement, the minimum separation between access points is forty (40) feet for all non-residential land uses.

7-106.9 Sight Distance Clearance – Where possible, in order to protect the safety of the property owner and on-coming motorists, all driveway connections shall be appropriately sited on the available public road frontage that will ensure proper sight distance clearance at a minimum of one hundred (100) feet in all directions on local residential roads, and a minimum of two hundred (200) feet in all directions on collector streets and arterial streets. All driveway connections onto local roads within the county shall be approved by the Sullivan County Highway Department and onto State Highways shall be approved by the Tennessee Department of Transportation.

7-106.10 Corner Lots – Where possible, driveway connections shall correspond to the E-911 address of the property and located on the interior street rather than a collector street, as interior streets such as cul-de-sacs, lanes and loop streets are lesser traveled. Refer to the adopted Major Thoroughfare Plan list for roadway classification. *(Amended by County Commission on September 21, 2009)*

7-107 Stacking Lane for Drive-Thru Pick-Up Window Service

Any use, such as restaurants or dry-cleaners, which has service windows, such a drive-thru lane must accommodate the traffic off the public road as the vehicle is in queue. For restaurants and high traffic-generated uses, the drive-up lane must accommodate a minimum of eight (8) vehicles for the first pick-up and six (6) vehicles for each additional pick-up window. For all other uses with drive-up window services, a minimum of three (3) vehicles for each pick-up window shall be required. All stacking vehicle distances shall be calculated at the property line excluding any internal aisles or roads. Any public deceleration or acceleration lanes in the public rights-of-way shall not be used for this purpose.

ARTICLE VIII

OPERATIONAL PERFORMANCE STANDARDS

SECTIONS

8-101 GENERAL PROVISIONS- PURPOSES, APPLICABILITY, EXEMPTIONS, ROAD FRONTAGE
8-102 SPECIFIC STANDARDS
8-103 STORMWATER MANAGEMENT/EROSION AND SEDIMENTATION CONTROL
8-104 PROPERTY MANAGEMENT
8-105 RESTRICTION OF TEMPORARY RECREATIONAL/AUTOMOTIVE VEHICLES AS PERMANENT DEWELLING/STORAGE
8-106 RESTRICTION OF INOPERABLE VEHICLES IN RESIDENTIAL AND PLANNED DISTRICTS
8-107 BUFFERING AND LANDSCAPING REQUIREMENTS FOR ALL COMMERCIAL AND MANUFACTURING DISTRICTS

8-101 GENERAL PROVISIONS

8-101.1 <u>Purpose and Intent</u> - It is the purpose of this article to provide appropriate standards relating to the operation of certain activities throughout the planning jurisdiction. Such operations may create or maintain such excessive noise, vibration, air pollution, odor, or electromagnetic interference as to be a detriment to the public health, comfort, convenience, safety and welfare. These standards are therefore provided to protect the public interest and promote the public health and welfare.

8-101.2 <u>Applicability</u>

1. In all districts every building or other structure or tract of land that is established, developed or constructed shall comply with each and every performance standard contained in this section, as applicable.
2. When the use or building or other structure Is extended, enlarged or reconstructed after the effective date of this Zoning Resolution, the applicable performance standards shall apply with respect to such extended, enlarged, or reconstructed portion or portions of such use or building or other structure.
3. In the case of any conflict between the activity type and the performance standards, the latter shall control.
4. The provisions of this section shall apply notwithstanding the issuance after the effective date of this resolution of any zoning permit or certification of zoning compliance.
5. In case of conflict between the performance standards set forth herein and any rules or regulations adopted by any other governmental agencies, the more restrictive shall apply.

8-101.3 <u>Road Frontage Requirements For All Lots</u> *<u>(amended 12 16 02 CC)</u>* – No principal building or structure in any zone, shall be erected on a lot, which does not conform to the following lot frontage requirements per principal building or structure, unless such lot is of recorded prior to September 1, 1988, then one principal use permit may be permitted. Such lot frontage shall be a continuous portion of land as part of the parcel and not narrower at any point less than that required. For the purposes of this Resolution, road frontage shall be determined as streets, which are publicly maintained. All lots within any district shall conform to the following minimum standards or exemptions:

1. <u>Standards:</u>
   a. All lots two (2) acres or less in total area shall have a minimum of twenty-five (25) feet of street frontage abutting on a public street (typical width for minimum utility access standards); or
   b. All lots greater than two (2) acres in total area shall have a minimum of fifty (50) feet of street frontage abutting on a public street (minimum width of right-of-way for future land division and road improvement); or
   c. Any lot as part of an approved plan [*in a private gated community (PUD or OSRD) and on a permanent easement (private street) that corresponds in its location and lines with a permanent easement shown on a plat approved by the applicable Regional Planning Commission with such approval entered in writing on the recorded plat by the secretary of the Regional Planning Commission (amended 06/21/99)*] shall have a minimum street frontage per dwelling subject to the standards above.
2. <u>Exemptions:</u>
   In the case where a tract of land is considered legal but non-conforming to the above road frontage requirements, as recorded prior to the adoption of county-wide zoning on September 1, 1988 (see Article XI), and which is outside out of any Urban Growth Boundaries of the Regional Planning Commissions, the land may be subdivided so long as the following requirements and conditions are satisfied prior to issuance of any principal use permit. The lot-of-record, which has less than fifty (50) feet of road frontage or none at all, may be subdivided only if the proposed new lots(s) obtain the minimum width of public road frontage subject to the standards above and in no case shall new lots be created without the required

minimum public road frontage requirements nor further non-conformities be created to the original tract by subdividing. All other zoning requirements shall apply.

8-102 SPECIFIC STANDARDS

8-102.1 Smoke and Particulate Matter - Any land use or other activity which involves the emission of smoke, particulate matter, or other air pollutants shall comply with all applicable standards set forth in State and Federal Statutes and regulations regarding the emission of air pollutants. Any such land use or other activity shall also obtain and maintain all necessary licenses and permits from the appropriate State and Federal Agencies, such as the United States Environmental Protection Agency.

8-102.2 Odor

1. Applicability - Any use established in a manufacturing district shall be so operated as to comply with the performance standards governing noxious odorous materials set forth hereinafter for the district in which such use is located. No use already established on the effective date of this resolution shall be so altered or modified as to conflict with, or further conflict with the provisions of this section. In addition, to the performance standards specified hereinafter, the emission of noxious odorous matter in such a manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.
2. Required Performance Level
   a. Standards Applicable Within M-2 Districts and at Any Boundary of a Residential District - Within any M-2 District and along any boundary separating any manufacturing district from any residential district, the emission of noxious odorous matter in such quantities as to be detectable at any point along lot lines when diluted in the ratio of one volume of noxious odorous air to four (4) or more volumes of clean air is prohibited.
   b. Standards Applicable Within All Other Manufacturing Districts - Within any M-1, PMD-1 or PMD-2 District, except along any residential district boundary where the provisions of Subpart a, above, shall apply, the emission of noxious odorous matter in such quantities as to be detectable at any point along lot lines when diluted in the ratio of one volume of noxious odorous air to eight (8) or more volumes of clean air is prohibited.

8-102.3 Toxic, Hazardous and Radioactive Matter

1. Applicability - The provisions of this section shall apply to all uses and activities located within any zoning district.
2. Continuous Compliance with Federal, State and Local Laws and Regulations Required - Any land use or activity which involves the use of toxic, hazardous, or radioactive materials shall comply at all times with all applicable standards set forth in local, State and Federal statutes and regulations regarding the use, storage, transportation, emission, and disposal of such materials. Any such land use or other activity shall also obtain and maintain all necessary licenses from the appropriate State and Federal Agencies, such as the United States Environmental Protection Agency.
3. Required Performance Level - In all zoning districts inclusive, no use shall for any period of time discharge across the boundaries of the lot where it is located toxic matter in such concentrations as to be detrimental to or endanger the public, safety, comfort or welfare, or cause injury or damage to property or business.

8-102.4 Glare

1. Applicability - The standards contained within this section shall apply in all commercial and manufacturing districts and to all community facilities activities located within any district.
2. Required Performance Level
   a. All site lighting shall be shielded so that substantially all directly emitted light falls within the property line. No illumination in excess of four (4) foot-candles shall be permitted within the boundaries of any adjacent residentially developed property. A foot-candle is the illumination at all points one (1) foot distance from a uniform point source (property line) of one (1) candlepower.
   b. All exterior building floodlights shall be shielded so that all of the light falls upon either the surface of the structure or on the ground.
   c. No illumination shall produce direct, incident, or reflected light that interferes with the safe movement of motor vehicles on public streets. Lighting prohibited by this provision shall include, but not be limited to:
      (1) Any light that may be confused with or construed as a traffic control device;
      (2) Any animated, flashing, or changing intensity lights.

8-102.5 Fire and Explosive Hazards

1. Applicability - The standards contained within this section shall apply in all commercial and manufacturing districts and to all community facility activities located within any district.
2. Required Performance Level
    a. All flammable solid, liquid and gaseous substances shall be stored and used in accordance with all applicable Federal, State, and local statutes and regulations.
    b. In all nonresidential zoning districts, the storage or use of solid materials or products ranging from incombustible to moderate burning is permitted.
    c. In all nonresidential zoning districts, the storage or use of solid materials or products ranging from free or active burning to intense burning is permitted, provided that either of the following conditions is met. Free or active burning too intense burning is a rate of combustion described by material that burns with a high degree of activity and is consumed rapidly. Examples include sawdust, powdered magnesium, pyroxylin, and other solids deemed by the fire marshal to have equivalent burning characteristics.
        (1) Solid materials or products shall be stored or used within completely enclosed buildings having no less than two (2) hour fire-resistant exterior walls and protected with an automatic fire extinguishing system; or
        (2) Said material, if stored outdoors, shall be no less than fifty (50) feet from the nearest lot line.
    d. Storage tanks for flammable liquids and gasses shall be located no closer than fifty (50) feet to any lot line.

8-102.6 Electromagnetic Interference - In all districts, no use, activity or process shall be conducted which produces electromagnetic interference with radio and television reception on any property beyond the lot line on which such activity exists.

8-102.7 Nonconforming By Reason of Operational Performance Standards - Any use existing on the effective date of this resolution, or subsequent amendment as applicable, and permitted by right that does not meet the requirements of one (1) or more of the operational performance standards established explicitly in this section or by reference shall be subject to the provisions of ARTICLE XII, Subsection 12-102.9, (Special Provisions Pertaining to Uses Not Conforming to Performance Standards).

8-103 Peak Stormwater Management and Erosion and Sediment Control Pollution Prevention- Land disturbance and other forms of site excavation can contribute to the degradation of land surfaces and streams, erosion, siltation, earth slides, mudflows, dusty conditions, clogged storm sewers, additional road maintenance cost, increased water runoff and localized flooding. Furthermore, Sullivan County's streams, creeks, sinkholes, rivers and lakes have a high concentration of soil sedimentation due in part from poor construction practices. It is the intent of this section to protect the health and safety of residents and adjoining or nearby property in the county, including land, waterways, ridges, hills and vegetation through the regulation of erosion and sedimentation control measures. Except as otherwise provided for, the following regulations shall apply in all zoning districts of the unincorporated territories of Sullivan County, as illustrated on the official *Sullivan County Zoning Map*:

8-103.1 Definitions - The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Best Management Practices (BMP): Shcedules of Activities, prohitibitions of practices, maintenance procedures, and other management practices to prevent or reduce the dischare of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site run-off, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Contaminant: Any physical, chemical, biological, or radiological substance or matter in water.

Cut: means the portion of land surface or area from which earth has been or will be removed by excavation; also, the depth below original ground surface to excavated surface.

Director: The Director of Planning & Codes of the County or his/her designee, who is responsible for the implementation of the provisions of these Rules & Regulations.

Discharge: To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, depsited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any directo or indirect entry of any non-storm water solid or liquid matter into the municipal separate storm wewer system.

Erosion – means any removal or loss of soil by the action of wind and water. Erosion includes both the detachment and transportation of soil particles.

Erosion and Sediment Control Measures: means one or more of the following measures, or other methods of slowing or stopping the removal of soil by wind, water, or gravity used singularly or in combination as appropriate:

a. *Diversion:* A swale or channel with supporting ridge (berm, dike, or wall) constructed across a sloping land surface along the contour, or with predetermined grades, to intercept and divert surface runoff before it gains sufficient volume or velocity to create conditions of erosion.
b. *Drains:* Underground conduits or filter drains to reduce surface runoff or lower a high water table.
c. *Grade stabilization structures:* Drop structures made of concrete, corrugated metal pipe or other suitable materials, which dissipate the energy of flowing water by dropping it in a relatively short horizontal distance.
d. *Grassed waterways:* A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses used to carry surface water.
e. *Land grading:* Reshaping the ground surface by grading to planned slopes and configurations that will prevent excessive erosion conditions.
f. *Mulching:* The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion and aid in establishing plant cover.
g. *Sediment and erosion control devices barriers:* A temporary device barrier installed to intercept runoff containing sediment. The device shall settle out sediment or filter sediment and allow runoff to pass through. Sediment barriers may include straw bale barriers and silt fences when installed. **Any method approved by the Tennessee Department of Environment and Conservation Office may be utilized, as appropriate to the site; and**
h. *Temporary cover:* Any method approved by the Tennessee Department of Environment and Conservation to temporarily stabilize disturbed areas.

Excavation: means the act of removing dirt or soil (see cut).

Fill: means the portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.

Grade: means the slope or elevation of the ground surface prior to or after cutting and filling.

Grading: means any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing or stock piling, or where any ground cover, natural or manmade, is removed, or any buildings or other structures are removed or any watercourse or body of water, either natural or manmade, is relocated on any site, thereby creating an unprotected area. Grading shall be synonymous with land disturbance activity.

Hot Spots: Sites, developments, or uses that have the potential of discharging pollutants that are not normally found in storm water, these sites could include concrete and asphalt facilities, auto repair, auto supply and large commercial parking lots.

Illegal Connections: Illegal and/or unauthorized connections to the municipal (city or county) separate storm water system whether or not such connections result in discharges into that system.

Immediate threat to public health and safety: means a very serious threat to the community or adjacent property including, but not limited to, clogged drainage ditches, flooding of adjacent properties, threat of landslides or other problems

Land Disturbing Activity: means any activity, which removes or significantly disturbs the vegetative cover, including clearing and grubbing operations and top soil stripping.

Land disturbance plan (grading plan): means the plan required before a grading permit may be issued. It consists of a narrative description and appropriate drawings and plans that spell out the methods, techniques and procedures to be followed on a site to control erosion and other potential degradation of adjoining or nearby properties, during and after development, including methods of final stabilization of the site. The plan shall also

include stormwater conveyance and management systems, where applicable. Supporting technical design information must be provided for erosion and sediment control and measures and for the design of the permanent stormwater conveyance and management systems.

Municipal Separate Storm Sewer System (MS4): The convenyances of owned or operated by the County for the collection and transportation of stormwater, including but not limited to, the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

National Pollutant Discharge Elimination System (NPDES) permit: A permit issued pursuant to 33 USC 1342.

Owner: means the person or entity holding the registered title to property. The county property tax rolls shall be prima facie evidence that the persons or entity listed therein is the registered owner.

Permit holder: means the owner of the property or the owner's representative in whose name a permit has been applied for and issued by the county Land Use Office.

Pollutant: Sewage, industrial wastes, other wastes or materials (liquids or solids).

Riparian Zone/Natural buffer: means the existing wooded buffers, meadows and fields along the banks of any stream, creek, or river, (as indicated on the latest version of the USGS topographical maps as blueline streams) which serve as natural elements protecting the water quality.

Sediment: means rocks, sand, gravel, silt or other material deposited by action of wind, water or gravity.

Sedimentation: means the action of settling out of the soil particles, which are transported by wind, water, or gravity.

Stormwater run-off (also called storm water): That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

Surface water: Includes water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

Stormwater Pollution Prevention Plan (SWPPP) - This is a combination of the Erosion and Sediment Control Plan and a narrative in accordance with the State of Tennessee's current Construction General Permit.

TDEC: The Tennessee Department of Conservation and Environment.

Water or waters of the State: Any and all water, public or private, on or beneath the surface of the ground, which are contained within flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

8.103.2 Grading Permit

1. *Requirement -* Except as otherwise exempted in section 8-103.3, no individual, property owner or other legal entity shall engage in any land disturbing activity which will modify the existing grade and/or may result in increased soil erosion or sedimentation including, but not limited to, clearing, stripping, grading, excavating transporting, and filling unless a grading permit and land disturbing plan has first been obtained from the County Land Use Office. The owner of the property or his representative shall complete an application for the permit and shall submit a proposed grading plan and land disturbing plan with the application. The property owner shall be responsible for compliance with all provisions of this section. The grading permit does not preclude additional permits or authorization required by the State of Tennessee or the county.
2. *Planning Commission or Building Commissioner Authorization –* In instances where a proposed land disturbance activity will equal or exceed 1 acre, is part of a larger common development which will disturb at least 1 acre, or will occur on any tract as a part of an overall high-density residential, commercial or manufacturing development plan, or will occur as a part of an environmental restoration project under the supervision of the United State Environmental Protection Agency or the State Department of Environment and Conservation or their successors, no grading permit shall be issued by the county until the grading

plan and land disturbing plan is reviewed and approved by the Planning Commission and/or the Building Commissioner.

3. *Pre*-construction Meeting – For projects which drain into a siltation impaired stream or into an Exceptional Water of the State, a pre-construction meeting shall be held between the County and the Owner/Developer before the grading permit is issued. The purpose of the pre-construction meeting is to review the approved plan, SWPPP, inspection requirements, maintenance requirements, other items, and to discuss the importance of protecting the water quality of the receiving stream.

8-103.3 Properties Exempt from Grading Permit - The following uses and activities shall be exempt from the required grading plan and issuance of grading permit with the following guidelines:

1. *Single-Family residences* – The construction of a single-family residence, addition to an existing single-family residence or all permitted accessory structures on a legal lot shall be exempt from the grading permit process, provided, however, such construction shall be required to comply with the erosion control requirements set forth herein. Upon receipt of a building permit, the property owner shall be advised by an employee of the county as to the minimum erosion and sedimentation control measures, to ensure practical management of stormwater run-off. All run-off of water and/or sedimentation shall be the responsibility of the current property owner and any clean-up of such shall be at no cost to the county.
2. *Public Utilities and Roadway Construction* – The installation, maintenance and repair of any public utility as well as public roadway and storm drainage construction and maintenance by governmental agencies and/or their agents; provided, however that such land disturbing activity shall comply fully with the rules and regulations set forth by the Tennessee Department of Environment and Conservation *Tennessee's current Construction General Permit, July 1, 2000).*
3. *Agricultural Uses* – Farming or other accepted agricultural uses, as identified in the Tennessee Right to Farm Act (T.C.A. § 43-26-103), or as hereafter amended.
4. *Lawns/Gardens/Landscaping* – Home gardens, home landscaping or lawn preparation on existing lots or parcels shall be exempted from the provisions stated in this article unless the possibility for erosion or alteration of drainage patterns or structures is such to necessitate a grading permit and/or alternative plan.
5. *Silviculture Uses* – The timbering and harvesting of trees strictly as a silviculture practice and not as a precursor to later development. However, timbering activities should follow best management practices, as outlined in the *Guide to Forestry Best Management Practices* – Tennessee Department of Agriculture, Division of Forestry, or current revisions, to protect streams and other sensitive areas.

8-103.4 Land Disturbance Plan (Grading Plan) - The land disturbance plan or grading plan shall comply with the minimum general and technical requirements set forth in this section. The complexity of the plan shall be commensurate with the severity of the site conditions and potential for off-site damage. The Planning Commission and/or the staff planner may require additional information if deemed necessary and appropriate to evaluate the feasibility of the plan. The grading plan shall be submitted and approved prior to any grading or construction activities.

1. *Plan Required* – Except as otherwise exempted from the requirements of this article, a grading plan shall be required prior to the issuance of a grading or building permit. The plan shall identify the specific and appropriate erosion control practices and sediment trapping facilities proposed for the site to be disturbed as well as a schedule for implementation and maintenance. The plan shall also identify final stabilized conditions for the site, provisions for removing temporary control measures and stabilization of the site when temporary measures are removed, permanent stormwater conveyance structures and maintenance requirements for any permanent measures.

2. *Professional Design* – The grading plan shall be developed by a qualified design professional, licensed to practice in the State of Tennessee who has completed and been certified in the stormwater, erosion and sediment control for stormwater quality (CPESC-SWQ), such as a qualified professional engineer, qualified landscape architect, or qualified land surveyor; or Certified Professional in Erosion and Sediment Control (CPESC).

   For projects which require a construction general permit through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit and submitted to the County. The SWPPP shall contain all required information at required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into an impaired stream or Exceptional Waters of the State are different than for projects draining to an unimpaired stream.

3. *Erosion & Sedimentation Control* – Erosion control measures shall be designed and provided in accordance with the latest version of the ***Tennessee Erosion and Sediment Control Handbook*** and Tennessee's Construction General Permit. If there is a conflict between these regulations and the State of Tennessee's Regulation, the most stringent regulation shall apply. Areas that are to be developed or excavated shall apply these guidelines, fitting the appropriate measures to the specific soils and topography so as to minimize soil erosion and surface water runoff. Erosion and sediment control measures shall be maintained until the site is significantly stabilized and maintained when necessary.

   All perimeter sediment control devices such as construction exits, earth berms/dikes, swales, sediment basins sediment traps, and other perimeter drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations.

   All erosion and sediment control devices shall be designed for the 2 year, 24 hour storm as a minimum. For drainage area of 10 acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the 2 year, 24 hour storm.

   For projects which drain into an impaired or exceptional state water, the erosion and sediment control devices shall be designed for the 5 year, 24 hour storm and a sediment basin or equivalent measures shall be used for drainage areas of 5 acres or more to a single outfall point.

4. *Protection of Natural Vegetation and Trees* – Natural vegetation shall be retained and protected whenever feasible during construction. If an area is stripped of vegetation during construction, the exposed area shall be limited to the smallest practical size, and durations of the exposure limited to the shortest practical time. Temporary barriers shall be maintained around the drip line/canopy of the existing trees to be protected.

5. *Minimum Information Required* – It shall be at the discretion of the Building Commissioner how much information is necessary to obtain a permit. At a minimum, the following information shall be required in order to evaluate the proposed development.

   a. Name, address and all available numbers of the permit holder, and the owners and developer, if other than the permit holder, for the property to be graded.
   b. The registration seal and signature of the engineer, landscape architect, land surveyor or Certified Professional in Erosion and Sediment Control (CPESC) who prepared, designed and referenced the plan.
   c. Cover letters addressed to the Planning Commission and/or Building Commissioner stating the intent of plans and project description.
   d. A plan which is drawn to a scale no less than one inch equals 100 feet, including predevelopment topographic conditions and post-development grades. The contour interval shall be no greater than five feet. The plan shall include off-site existing topographic conditions extended to a minimum of 25 feet beyond the boundaries of the subject tract of land if grading is designed to be within 25 feet of any boundary line. The pre-development conditions survey shall also include information on all public roads adjoining the subject property.
   e. The site location, boundaries, adjacent properties, location of any existing or proposed buildings or structures on the property or on adjacent land within 100 feet of the area to be disturbed, floodplain areas, ditch lines and any existing on-site and off-site structural or natural features of the land which have a significant impact on drainage or sediment control.
   f. Outline of all drainage basins within the project area.
   g. Identification of all streams, wetlands and sinkholes within the project area.
   h. The location and a description of the temporary and permanent erosion control measures and drainage apparatuses to be constructed and structural changes and improvements to the land, including clearing and grading limits, daily cleanup and site control practices and other activities to mitigate the adverse impact of land disturbance.
   i. A time schedule for initiation and completion of the measures and devices and periodic maintenance after completion. A general sequence of construction explaining when sediment control, drainage, and stormwater management devices are to be installed in relation to other components of the site development is to be provided on the plans. The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.
   j. Stormwater conveyance system
   k. Stormwater Management system design and calculations.

6. *Final Inspections Required* – Upon completion of the development, the design professional engineer who designed the stormwater conveyance and management system, or another design professional qualified to design stormwater systems, shall inspect the as-built condition design and issue a letter to the county certifying that such design complies with the approved plans, will support the stormwater run-off and complies with all requirements stated herein. All approvals of a final plat, final site plan and/or Certificate of Occupancy shall be withheld until such as-built inspection has been certified as stated above by the engineer who designed the stormwater plan.

   For drainage areas of 10 acres or more to a single outfall (5 acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within 1 month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable.

   The Building Commissioner, with the assistance of others, shall make periodic inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan. For all construction sites draining to siltation impaired streams or exceptional waters of the State, the County shall perform at least monthly inspections. Inspections will evaluate whether the measures required in the approved plan and/or grading permit and undertaken by the Developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

   As a minimum, the owner/operator of any construction project which requires a land disturbance plan is required to perform twice weekly inspections of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a construction stormwater permit through the State of Tennessee, the owner/operator shall perform inspections, site assessments, maintenance of devices, and documentation in accordance with the State of Tennessee's current Construction General Permit.

8-103.5 **Construction Access Routes** - A stabilized stone pad, meeting requirements of the Tennessee Erosion and Sediment Control Handbook, shall be placed at any point where traffic will be entering and leaving a construction site to or from a public road prior to the initiation of any grading work. Stone pads shall contain ASTM-1 stone, six inches thick, and shall be placed from the public road into the construction site a minimum width of 12 feet and length of 100 feet for commercial and 40 feet for residential developments. If there is runoff flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the runoff to sediment control devices adjacent to the exit.

8-103.6 **Cut and Fill Slopes** - Permanent cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Consideration shall be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Any slopes installed at two foot horizontal to one foot vertical or steeper shall be stabilized with rock riprap or other acceptable method approved by the Planning Commission and/or staff planner and Building Commissioner.

8-103.7 **Stabilization of Denuded Areas and Soil Stockpiles** - Permanent erosion control measures shall be applied to denuded areas within 15 14 days after final grade is reached on any portion of the site. Soil stabilization shall also be applied within 15 14 days to any denuded area, which may not be at final grade, but will remain dormant (undisturbed by construction activity) for longer than 30 14 days. For slopes 3:1 or steeper, they must be temporarily or permanently stabilized within 7 days of grading ceasing on those slopes.

Any temporary soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent erosion. Stockpiles of soil, fill or other materials shall not be placed in an area that may cause a site visibility hazard, such as within a right-of-way. Applicable erosion control measures shall include establishment of vegetation, mulching and the early application of gravel base on areas to be paved.

Selected permanent or temporary erosion control measures should be appropriate for the time of year, site conditions and estimated duration of use. Under no circumstances shall this local requirement relieve the

applicant from complying with the TDEC General Permit No. TNR 10-0000 Construction General Permit for Stormwater Discharges.

8-103.8 Protection of Adjacent Properties

1. *Downhill Protection* – All properties adjacent and/or downhill from the site of a land disturbance shall be protected from soil erosion and sedimentation. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter controls such as sediment barriers, filters or dikes, or sediment basins, or by a combination of such measures.

2. *Use of Buffer Strips* – Vegetated buffer strips shall be used alone only where stormwater runoff is anticipated to occur through sheet flow and shall be a minimum of 20 feet in width. If at any time it is found that a vegetated buffer strip alone is ineffective in stopping erosion onto adjacent property, additional perimeter controls shall be provided by the owner.

3. *Sediment Control* – Sediment basins and traps, perimeter dikes, sediment barriers, check-dams, diversions and other erosion control measures intended to trap sediment on-site to protect downstream or adjacent properties shall be constructed as the first step in grading and shall be made functional prior to disturbance of upslope land. Earthen structures such as dams, dikes and diversions shall be seeded and mulched/strawed within seven days of installation.

   The Building Commissioner has the authority, at his/her discretion, to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines, after construction begins, that the plan and/or implementation schedule approved by the Planning Commission does not adequately provide the protection intended by this Resolution and the plan approved by the Planning Commission. Additional protective measures required by the Building Commissioner are subject to appeal under the procedures outlined in the Zoning Resolution.

4. *Stormwater Runoff* – Stormwater runoff shall be managed to protect downstream or adjacent properties from sediment runoff, erosion, or an increase in runoff rate that could damage those properties. from disturbed areas one acre of greater shall pass through a sediment basin or other suitable sediment trapping facility. All storm drainage inlets shall be protected during construction with a sediment barrier to prevent clogging and localized flooding. All means of protection shall be maintained and monitored throughout construction.

8-103.9 Disturbance in and along Streams and Floodways - The applicant for proposed land disturbance activities in streams or other Waters of the State (defined by a blue line on a 7 ½ minute United States Geological Survey quadrangle) and designated floodways shall be required to provide evidence of obtaining appropriate permits from federal and state regulatory agencies or a written waiver of such permits prior to the issuance of a grading permit by the county. In all cases where the development site has a stream blue line streams and is not designated as a floodway on the most recent Flood Insurance Rate Map or other best available certified data, a minimum of 20 feet shall be reserved along the highest water mark or creek bank on both sides of the channel as a protected undisturbed riparian/buffer zone.

A minimum twenty-five (25) foot permanent undisturbed buffer shall be provided from the top of bank along both sides of streams or Waters of the State except as necessary for the crossing of the stream for installation of utilities, development of roads, or construction of outfalls for stormwater facilities, related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the stream and its buffers. Any disturbance to a stream or wetland requires an Aquatic Resource Alteration permit through the State of Tennessee.

During construction, a 30' average (15' minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream is siltation or streamside habitat impaired or an exceptional water of the state, the undisturbed buffer during construction is increased to a 60' average (30' minimum) or equivalent measures. *(Amended May 20, 2013)*

8-103.10 Peak Stormwater Management (Drainage Plan) – Pre-construction and Post-construction

1. *Purpose* – The intent of this section is to protect the health and safety of the residents of the county; to control the level and intensity of stormwater runoff consistent with existing runoff levels; to minimize expenditure of public funds for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding; to maximize beneficial use of land without incurring flood hazard potential; to ensure a functional

drainage system that will not result in excessive maintenance costs; to encourage the use of natural and aesthetically pleasing design; to ensure water quality; and to protect or improve groundwater or surface waters.

2. *Site Plan Approval* – Prior to approval of the site development plan or final subdivision plat; the county Planning & Codes department in consultation with the design professional preparing the site development plan or final subdivision plat shall determine whether there is a need for a stormwater management plan based upon historical findings, any current adopted floodplain studies, hydrologic calculations as may be required, and other factual data as may be available. When a stormwater management plan is required, such plan shall be concurrently submitted to the Highway and Planning & Codes departments for review and recommendations prior to consideration by the Planning Commission.

3. *Improvements Required* – The Planning Commission may require, as necessary, structural or other improvements designed to detain the level and intensity of stormwater runoff associated with the land development site. A drainage calculation report shall be addressed and submitted to the Planning Commission, as prepared by a licensed engineer. All plans and reports shall be original and wet stamped by such reporting engineer and addressed to the county directly. Any stormwater runoff, which is channeled, either through structural facilities or graded ditches, to adjacent properties, the developer shall be responsible for preparing, securing and recording a drainage easement to ensure that all adjacent land owners who may become affected by the development, now or in the future, are aware and agree to such plan.

   If stormwater management is required, best management practices shall be implemented that accommodate any increase in stormwater runoff generated by the development in a manner in which the pre development levels of runoff for the two (2) and ten (10) year storm events are not increased during and following development and construction. The Planning Commission reserves the right to require stormwater management to maintain pre development levels of runoff for the 25, 50, or 100-year storm event if a known flooding problem exists downstream.

   Sullivan County wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the county and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices to reduce and minimize runoff in new development. Efforts to enhance infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority:

   The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

   (a) Natural area conservation
   The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

   (b) Disconnection of rooftop runoff
   Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across vegetated areas, the greater the filtering and infiltration of the run-off which in turn improves water quality and reduces downstream run-off.

   If the lot is graded to disperse the rooftop runoff as sheet flow through at least 50' of thick grass or other thick vegetation or through at least 25' of existing woodlands, 50% of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to 50% of the rooftop area is placed in the path of the disconnected rooftop runoff, then the remaining 50% of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

   If the rooftop runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, 100% of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten (10) feet, preferable further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

(c) Disconnection of non-rooftop impervious runoff

Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging run-off from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bioretention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that run-off travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream run-off which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending run-off from one impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the run-off path.

If the site is graded to disperse the impervious runoff as sheet flow through at least 50' of thick grass or other thick vegetation or through at least 25' of existing woodlands, 50% of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, 100% of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

(d) Sheet flow

Maintain sheet flow for as long as possible before the run-off has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces run-off downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing run-off through woodlands, or other means so the run-off returns to pre-development characteristics to meet the adequacy of outfall provision of this ordinance and to improve water quality and reduce run-off downstream.

(e) Grass channels in lieu of piping or hard surface channels

(f) Environmentally sensitive development

Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount of hard surface required to meet the zoning regulations. If additional parking area is desire, the County strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the County Staff. If the County Staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the Board of Zoning Appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to 14 times more rainwater than grass and require less maintenance.

Any stormwater detention or retention pond shall also be designed to pass the post development *100 year storm* (peak attenuation to the 100 year pre development rate is not required) through the pond without overtopping any portion of the dam. This can be accomplished through the principal spillway or an emergency spillway or using both. The emergency spillway shall be installed on virgin soil and is not to be placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100 year storm.

The overflow path through the site and from any stormwater management device for stormwater runoff above the design storm event, shall not adversely impact any onsite structures such as buildings and roadway stability.

Provide hydraulic calculations for stormwater facilities sealed by a design professional qualified to prepare hydraulic calculations in accordance with State of Tennessee law. As a minimum, the calculations shall include a pre and post development drainage area map, brief narrative, pre and post development runoff data, and routing calculations to determine the outflow rate from the stormwater management facility.

Provide location, size, details, and layout of proposed stormwater management. Provide appropriate details such as a profile through the principal spillway with cutoff trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures. The low flow opening in a riser structure and its overflow shall have a trash rack to prevent the opening, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

The location and amount of stormwater runoff leaving site after construction and from stormwater management measures proposed should be evaluated to protect adjoining and downstream properties and existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development. When water is concentrated, what is the capacity of waterways and storm drains, if any, accepting stormwater off-site, and what measures including infiltration, sheet flowing into buffers, outfall setbacks, etc. are to be used to spread concentrated runoff and prevent the scouring of waterways and drainage areas off-site.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from offsite properties to allow the concentrated water to spread out back to pre development flow characteristics. Under no circumstance shall an outfall pipe, as measured from the end section, headwall, or pipe, if no end structure is used, be any closer than ten (10) feet from the offsite property unless a drainage easement from the offsite property owner is obtained and recorded. The outfall setback shall be determined by the design professional and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip rap or other velocity/energy dissipating method to reduce erosion potential. All rip rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

(i) Maintenance of Stormwater Management Facilities Drainage Plan – Upon final site plan or subdivision plat approval, the maintenance of the stormwater plan shall remain the responsibility of the current landowner(s) and shall by no means be the enforcement duty or maintenance responsibility of the county except for those stormwater systems within county rights-of-way or other county-owned properties.

Stormwater management facilities or devices, including detention ponds, which are located in subdivisions, shall be located on a non-buildable lot or within an easement if located on a buildable lot. Any existing and proposed easements shall be shown on the construction drawings as well as the recorded final plat. The construction drawings and the final plat shall state who is responsible for the maintenance of the stormwater management devices. **The County shall not be responsible for the maintenance of stormwater management facilities or devices except for those within County rights-of-way or on other County owned properties.** *(Amended May 20, 2013)*

8-103.11 **Illicit Discharge and Illegal Connections or Dumping –** If the owner/operator of the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants; at a minimum, such measures must be designed, installed, implemented and maintained to:

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash-water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

The following discharges are prohibited from construction sites:

1. Wastewater from washout of concrete, unless managed by an appropriate control.

2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials

3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

4. Soaps or solvents used in vehicle and equipment washing.

(A) Applicability - This section shall apply to any discharge entering the municipal separate storm sewer system that is not composed entirely of stormwater.

(B) Prohibition of illicit discharges -

1. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.

   a. Exceptions. Uncontaminated discharges from the following sources are permitted:
      (1) Landscape irrigation or lawn watering with potable water;
      (2) Diverted stream flows permitted by the State of Tennessee;
      (3) Rising ground water;
      (4) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
      (5) Pumped groundwater;
      (6) Foundation or footing drains;
      (7) Water discharged from crawl space pumps;
      (8) Air conditioning condensate;
      (9) Springs;
      (10) Individual, residential washing of vehicles;
      (11) Flows from natural riparian habitat or wetlands;
      (12) Swimming pools (if dechlorinated – typically less than one part per million chlorine);
      (13) Street wash waters resulting from normal street cleaning operations;
      (14) Discharges resulting from emergency fire fighting activities;
      (15) Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;
      (16) Discharges necessary to protect public health and safety, as specified in writing by the County; and
      (17) Dye testing permitted by the County.

b. Discharge due to water line flushing directly to the waters of the State of Tennessee is prohibited. Persons responsible for water line flushing activities are required to de-chlorinate discharges before such discharges come in contact with waters of the State of Tennessee.

c. Discharge of swimming pool water directly to the waters of the State of Tennessee is prohibited. Persons responsible for water line flushing activities are required to de-chlorinate discharges before such discharges come in contact with waters of the State of Tennessee.

2. The County has the authority to identify areas that would be considered 'HOT SPOTS' for pollution runoff. These sites should be investigated for potential highly contaminated runoff and if found then enforcement action shall occur.

(C) Prohibition of illegal connections -

1. The construction, use, maintenance, continued existence of illegal connections to the municipal separate storm sewer system is prohibited.

1. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(D) Elimination of Discharges or Connections -

1. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

2. Any person responsible for a property or premises where an illegal connection is located may be required, at the person's expense, to eliminate the connection to the municipal separate storm sewer system. Improper connections in violation of this resolution must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer agency.

3. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Director requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director.

4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(E) Notification of spills -

1. Notwithstanding other requirement of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water and/or the municipal separate storm water system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

2. In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The person shall notify the Director in person or by telephone or facsimile no later than the next business day.

3. In the event of a release of non-hazardous materials, the person shall notify the Director in person or by telephone or facsimile no later than the next business day.

4. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Director within three (3) business days of the telephone notice.

5. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years.

(F) Authority

1. The Director or his/her designee(s) shall have the authority to enforce these Rules and Regulations.

2. All Sullivan County officials are hereby authorized to assist when and where appropriate in the enforcement of these Rules and Regulations.

3. The Director may require reports or records from the permitee or person responsible for eliminating the illicit discharge or illegal connection to insure compliance.

(G) Inspections by the County

1. The Director or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of these Rules and Regulations.

2. The owner/operator of any facility, operation or residence where an illicit discharge or illegal connection is known or suspected shall allow the Director or his/her authorized representative to have access to and copy at reasonable times, any applicable State or Federal permits related to the suspected or known discharge or connection, or any reports or records kept as a condition of these Rules and Regulations.

3. Failure on the part of an owner or operator to allow such inspections by the Director or his/her designee shall be a violation of these Rules and Regulations.

(H) Enforcement, Penalties, and Liability

1. It shall be unlawful for any person or entity to violate any provision or fail to comply with any of the requirements of these Rules and Regulations. The Director or his/her designee(s) shall have the authority to issue directives ordering violators to immediately cease and desist violating these Rules and Regulations and to issue a Stop Work Order directing violators to cease and desist any activity, which causes or contributes to the violation of these Rules and Regulations. If a person or entity has violated or continues to violate these Rules and Regulations, the Director or his/her designees may petition for a preliminary and permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

2. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of these Rules and Regulations is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

3. Any person in violation of these Rules and Regulations shall be subject to a civil penalty not to exceed $5000.00 for each offense per Tenn. Code Ann. §68-221-1101, a Stop Work Order, and/or civil damages. Each day such violation shall continue shall constitute a separate violation.

4. Failure to comply with a Stop Work Order shall constitute a separate violation, which shall be subject to a penalty of not to exceed Five hundred dollars ($500.00). Each day such violation shall continue shall constitute a separate violation.

5. In order to gain compliance, the Director may notify other Sullivan County departments to deny service to the property until the site, facility, activity and/or residence has been brought into compliance with these Rules and Regulations.

6. Any person who violates any provision of these Rules and Regulations shall also be liable to the County for damages caused to the County by the violation. Such damages may include expenses incurred in investigating and enforcing violations of these Rules and Regulations including, but not limited to, attorney's fees, costs of litigation, sampling and monitoring expenses.

7. Upon the request of the Director, the attorneys for the County shall take appropriate legal action to enforce the provisions of these Rules and Regulations.

8. The remedies provided for in these Rules and Regulations are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

9. Neither the approval of a discharge under the provisions of these Rules and Regulations nor compliance with the conditions of such approval shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the County for damage to other persons or property.

8-103.12 **Notice of Termination** – With the exception of residential subdivision developments, all other developments and projects that were required to obtain a *General Construction Permit* with TDEC, shall be required to submit a copy of the *Notice of Termination* letter to the County Staff prior to issuance of a *Certificate of Occupancy* from the County. Notices of Termination for residential developments shall not be issued until the last home is completed. It is the responsibility of the owner/developer to request *Notice of Termination* from the State.

(Amendments to Article 8-103 were approved by County Commission in May of 2013 to meet current Clean Water Act, NPDES, Phase II Federal Requirements).

8-104 **Property Management** - It shall be the responsibility of all property owners to ensure the maintenance of one's property with regard to the requirements of this Zoning Resolution and the Health and Safety Regulations standards, including but not limited to the following:

A. *Trash –* All solid waste shall be contained and properly disposed of in a legal container and/or landfill. The site shall be free of all debris to protect the health of the environment and appearance of the community.

B. *Health and Safety Regulations –* All properties under the jurisdiction of Sullivan County shall be subject to these provisions and regulations as herein adopted or referenced.

C. *Buffer Strips/Screening –* Any development, which has been approved by the county, shall maintain all required buffering areas, grass areas, landscaped areas, fencing or any other landscape/hardscape so required for the purpose of protection of incompatible adjacent land uses, land for stormwater absorption, and general appearance of the site

8-105 **Restriction of Recreational and/or Automotive Vehicles as Permanent Dwellings Or Storage** - No camper, Recreational Vehicle (RV), or any other automotive vehicle may be used as a permanent residential dwelling or storage structure. All such vehicles or campers shall only be allowed, as they were designed, for temporary and seasonal use within an approved campground facility, approved lake lot, or otherwise stored in an approved storage area not in use. Refer to the Temporary Supplemental Use provision for campground facilities in Appendix B.

8-106 **Restriction of Inoperable Vehicles in all Residential and Planned Districts** - The temporary or permanent outside storage or placement of inoperable vehicles, of any kind, whether in whole or in parts, shall be strictly prohibited within all residential and planned districts. Any vehicles that are being serviced, repaired or restored shall take place within a completely enclosed permissible structure located on the property of the owner or within an appropriate commercial district offering such services. All such activities, regardless of location shall be subject to all local, state and federal laws and regulations governing the health and safety issues.

8-107 **Buffering and Landscaping Requirements for all Commercial and Manufacturing Districts** - Buffering and/or landscaping standards shall be required in order to visibly screen incompatible land uses from one another and to assist in the controls of stormwater run-off. The following minimum standards shall be required for all proposed commercial and manufacturing developments, as well as, any non-residential facility and multi-family housing complexes as stated in ARTICLE III:

8-107.1 **Buffering Strip** - A minimum of an eight (8) foot reserved portion of a parcel, which shall be free of all buildings, structures, signs, parking or other paved and hard surfaces for the purpose of buffering one land use from another, possibly incompatible land uses. Such strip shall be planted with year-round evergreen trees and shrubs a minimum of four (4) feet in height (when planted) on ten (10) foot staggered centers. Total overall height of at least one (1) row of plantings shall be a minimum of eight (8) feet upon mature growth. Such buffer shall be maintained and free of debris with other specifications as may be required by the Planning Commission or Building Commissioner to ensure proper screening between properties, wherever required. In the case of undisturbed mature-growth trees, the Planning Commission or Building Commissioner may reduce additional plantings in areas specified so as to preserve the established trees. Furthermore, the selection of trees may be specified by the Building Commissioner or Planning Commission due to existing overhead utility lines, which may interfere with the mature height of such selected tree specification. Where appropriate a solid (opaque) wood, masonry and/or solid PVC fence, a minimum of six (6) feet in height, may be constructed in lieu of or part of a planned buffer strip. All buffer strips and/or fencing shall be maintained for the life of the use and/or improvements *(amended August 15, 2005).*

8-107.2 **Vegetative Reserve Green Strip** A minimum of a ten (10) foot vegetative reserve green strip shall be maintained on all road frontages in order to control vehicular access and to assist in the stormwater run-off from the parking lot and other impervious surfaces. Such reserve strip shall be free from all structures and parking; however the sign(s) for the development may be within such area, subject to the requirements of Article IX. Such reserve strip may be planted with any type of shrubs and/or grasses that, at mature growth, do not exceed three (3) feet in height, so as to not interfere with vehicular sight visibility. Such requirement may be waived for all new developments within the B-2 district should alternative access controls and stormwater designs be implemented.

ARTICLE IX

SIGN REGULATIONS

SECTIONS

9-100 PERMITS
9-101 PROHIBITED SIGNS
9-102 REGULATIONS FOR A-1/AR AND B-1 ZONING DISTRICTS
9-103 REGULATIONS B-2 ZONING DISTRICTS
9-104 REGULATIONS FOR B-3, B-4, PBD/SC, PBD-3, M-1, M-2, PMD-1, PMD-2

The purpose of this Article is to provide a comprehensive system of sign regulations, which will promote the best development of Sullivan County through the establishment of regulations which regulate the type, placement, and size of signs and other graphic devices within the county; protect and enhance the scenic beauty of the natural environment in the county; emphasize the assets of community appearance and high environmental quality in promoting manufacturing recruitment and economic development; promote the public health, safety, and welfare by prohibiting improperly designed or located signs which could distract, confuse, mislead, or obstruct vision; ensure safe construction and maintenance of signs; protect and enhance public and private property; ensure equity in the distribution of the privilege of using the public visual environment to communicate private information; and improve the appearance of the county's business areas, especially along major thoroughfares. Freestanding signs of any kind are considered accessory structures and shall be incidental and subordinate to the principal use of the property.

9-100. Permits

9-100.1 Permit required - No freestanding or off-premise advertising sign shall be erected, replaced, reconstructed, expanded, or relocated without first securing a building permit from the Sullivan County Building Commissioner. No permit shall be required for customary maintenance or a change of copy on a sign, the customary use of which involves frequent and periodic changes of copy, e.g., reader boards with changeable letters, movie theater marquees, and service station price signs. Other signs do not require a permit, but shall conform to applicable regulations of this article.

9-100.2 Revocation of permits - The Sullivan County Building Commissioner is hereby authorized and empowered to revoke any permit upon failure of the holder to comply with any provision of this resolution or with the terms of the permit at the time of its issuance.

9-100.3 Inspection of signs - At any time deemed necessary, the Sullivan County Building Commissioner, or designee, may inspect each sign regulated by this Article to ensure that such sign conforms to this Article and to all other resolutions of the county.

9-100.4 Permit fees - The fee for signs requiring permits shall be $25.00 per sign.

9-101. Prohibited signs - The following signs shall be prohibited in all zoning districts:

9-101.1 Any unsafe sign - If the Building Commissioner shall find that any sign is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this resolution, he shall give written notice to the owner of the sign and/or of the property and/or the architect, builder, contractor, or agent for both or either requiring the sign to be made safe and secure or to be removed. If the sign is not removed or altered so as to render it safe and secure, the Building Commissioner shall proceed with action as provided by law. The Building Commissioner may cause any sign, which is an immediate danger to persons or property to be removed immediately and without prior notice.

9-101.2 Any sign located within, upon, or over the public right-of-way, except government signs, and special event banners.

9-101.3 Any sign located on a tree, telephone pole, power pole, or street light pole, except special event banners.

9-101.4 - Any sign, which contain flashing or intermittent red, blue, green, or amber illumination as it may be confused with official governmental traffic safety signs.

9-101.5 Illuminated signs within one hundred (100) feet of a residential district, unless the illumination is designed so as not to shine or reflect light onto the residential district.

9-101.6 Any sign which constitutes a traffic hazard. No sign or revolving beam or beacon of light shall be erected at any location where by reason of the position, shape, color, type, or illumination or reflectance it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or devise. Any such sign shall be removed immediately at the direction of the Building Commissioner.

9-101.7 Off-Premise Sign – any sign that directs attention to a business, commodity, or service offered at a location other than the premises on which the sign is erected. Any sign, which is not, an on-premises sign, as regulated by the district, shall be considered an off-premises sign.

9-102. Regulations for A-1/AR and B-1 Zoning Districts

9-102.1 **Permitted signs** - For permitted uses, the following regulations shall apply:

1. Freestanding Sign - One (1) freestanding sign for each street frontage granting access to the premises. Maximum height of each such freestanding sign shall be fifteen (15) feet. Maximum area of each such sign shall be thirty-two (32) square feet, per sign face. No such sign shall be permitted which does not meet the required ten (10) foot setback from any property line or public right-of-way. If more than one access is provided and allowed, but only one sign is requested, such sign shall be limited to 9-104.1 subpart 1(b) of the matrix. Such sign shall be anchored to the ground.

2. Portable Sign - One (1) portable sign provided it has no flashing lights and is located at least 10 feet off the right-of-way and does not obstruct vision to vehicular traffic. Maximum area of such sign shall be limited to twenty-five (25) square feet per sign face. Electrical signs shall conform to the State Electrical Code for safety and efficiency. Such portable sign shall be considered a type of freestanding sign and not in addition to that required in subpart 1 of this section. Such sign shall be anchored to the ground.

9-102.2 No sign shall have or consist of any rotating, revolving, or otherwise moving part. No sign shall be animated.

9-102.3 No sign shall advertise a product, service, or other business not situated on the same premises.

9-103. Regulations for B-2 Zoning District

9-103.1 **Permitted signs** – Due to the unique zero-lot line development style, freestanding advertising signs are prohibited, except for the following:

1. Community Informational Sign – Any shared freestanding permanent sign used for the display of public and semi-public information. Such sign shall be limited to one (1) per public road frontage per lot and a maximum of 32 square feet per sign face, no greater than eight (8) feet in height. Such sign shall not be located near any intersecting streets, which would cause a sight visibility hazard for vehicular and pedestrian traffic.
2. Temporary Special Event Freestanding Signs – Any temporary sign may be erected subject to a limit of five (5) times in any calendar year, with such period limited to ten (10) days prior to the event open to the public. Such sign shall be removed within two (2) days post such event. The height and size of such signs shall be limited to the standards of that above (9-103.1, 1).
3. Illuminated Signs – Any freestanding, wall or window sign that is permitted above may be internally illuminated or lighted with spotlight.

9-103.2 **Prohibited signs** – Any animated, blinking or neon lighted signs are not permitted with the B-2 zone.

9-104. Regulations for B-3, B-4, PBD/SC, PBD-3, PUD, M-1, M-2, PMD-1 and PMD-2 Zoning Districts

9-104.1 **Permitted signs** - For permitted uses, the following regulations shall apply:

1. Freestanding Sign - Each parcel shall be permitted one or more freestanding signs under the following conditions:
   (a) Number of signs - A parcel is permitted one (1) freestanding sign per street frontage granting access to the parcel, center or planned development. If the length of a single street frontage is greater than four hundred (400) feet, the parcel, center, or planned development shall be

permitted a second freestanding sign along that frontage. In computing the allowable number of signs for parcels with more than one qualifying frontage, each frontage shall be considered separately. If a planned development, shopping center or parcel is divided by a street, and then only one side of the street is to be used to compute frontage length.

(b). Height and Sign Face -The maximum height and sign face of each freestanding sign shall be determined by its setback distance from the adjoining qualifying street, according to the following table:

Setback from Property or R-O-W	***Height***	***Square Footage per Sign Face***
10	30’	100
11	31’	102
12	32’	104
13	33’	106
14	34’	108
15	35’	110
16	36’	112
17	37’	114
18	38’	116
19	39’	118
20	40’	120
21	41’	122
22	42’	124
23	43’	126
24	44’	128
25	45’	130
26	45’	132
27	45’	134
28	45’	136
29	45’	138
30	45’	140
31	45’	142
32	45’	144
33	45’	146
34	45’	148
35	45’	150
36	45’	152
37	45’	154
38	45’	156
39	45’	158
40	45’	160
41	45’	162
42	45’	164
43	45’	166
44	45’	168
45	45'	250

2. Portable Sign -One (1) portable sign provided it has no flashing lights and is located at least 10 feet off the right-of-way and does not obstruct vision to vehicular traffic. Maximum sign face area is twenty-five (25) square feet. Such sign shall be anchored to the ground and meet the requirements of the State Electrical Code for safety and efficiency.

9-105. Abandoned Nonconforming Sign - Any sign advertising a discontinued use, occupant, product or service after a period of two (2) years shall not be reestablished or changed in any way not in conformity with provisions of this resolution.

9-106. Other Signs - Any proposed freestanding sign not addressed by the preceding provisions of this article shall conform to the requirements of Section 9-102.1 (1).

9-107. <u>Signs Permitted on Review</u> - Special signs may be permitted on review by the Planning Commission, provided however that no permit may be issued except with the written approval of the Planning Commission and subject to such conditions as the Planning Commission may require to preserve and protect the character of the district in which the proposed sign is to be located."

9-108. <u>Temporary Construction Signs</u> - Upon approval of any construction project, one temporary, freestanding sign may be located on the premises throughout the duration of the project. Such sign shall be setback a minimum of ten (10) feet from all property lines, shall not be located with the sight-distance clearance triangle at roadway intersections, and shall be limited to thirty-two (32) square feet per sign face. Such sign shall be removed upon completion of the project and/or upon installation of a permitted permanent freestanding sign, whichever occurs first. Individual contractor signs shall not be allowed as they are defined as off-premises advertising and prohibited herein.

9-109. <u>Electronic Message Board Signs on Freestanding Sign Structures</u>

Freestanding Signs with Electronic Message Board Sign Faces- In any B-3, B-4, PBD or PBD-3 Zoning District with an operating business or on any parcel where a place of community assembly is operating such as a church, community center, fellowship hall or school may have one (1) freestanding electronic message board sign as part of the permitted freestanding sign but not in addition to the allowable freestanding sign per road with the following conditions:

9-109.1 Only one freestanding electronic message board sign shall be permitted per site, and limited to information by words, letters, or still pictures; and

9-109.2 Such sign shall be located on a lot that has at least 100 feet of publicly maintained road frontage along an arterial road as classified on the ***Sullivan County Major Thoroughfare Plan***; and

9-109.2.1 The electronic message board must be a part of the primary freestanding sign with a maximum size of 50 square feet per side or in lieu of the freestanding sign, but not in addition to the maximum allowable signs per lot. The electronic message board portion of the freestanding sign must not exceed 50 percent of the total freestanding sign face as permitted; and

9-109.3 The maximum height of the sign is as permitted in the sign code by district regulations; and

9-109.4 Electronic message boards shall include an automatic dimmer. The maximum allowable brightness of an electronic message board shall not exceed 4,000 Nits during the hours between 7:00AM to 10:00PM and 1,000 Nits after 10:00PM to 7:00AM; and

9-109.5 Electronic message boards shall not interfere with traffic signal devices as determined by the Building Official; and

9-109.6 Electronic message boards shall not be used for off-premises advertising rather must be accessory to the principal use of the parcel on which it is located; and

9-109.7 Signage shall be limited to text, images and still pictures only with no video or animation of any type; and

9-109.8 As with all other signs, no scrolling or flashing text or images will be permitted; and

9-109.9 Any display of texts or images on an electronic message board sign shall be for a minimum of five (5) seconds in duration; any message change shall be completed within one (1) second rather than gradually fade in and out, shall be simultaneous and fixed in place for the minimum of five (5) seconds; and

9-109.10 No electronic message board sign shall be permitted within any historic district or conservation overlay zone (H-1, H-2 or CV1-6); and

9-109.11 The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign; and

9-109.12 The Changeable Message Sign shall not be configured to resemble a warning, danger signal, official signage used to control traffic or to cause a driver to mistake the digital sign for a warning or danger signal; and

9-109.13 All sign structures and sign faces shall be fixed with no moving or rotating parts.

9-110. Wall Signs

9-110.1 Wall Sign may be mounted on any nonresidential building but shall be limited to one (1) square feet of wall sign area per horizontal linear foot of the exterior wall length for which the sign shall be located; and

9-110.2 Wall Signs may be internally illuminated on any non-residential building where permitted by zoning district, however shall not be internally illuminated within any historic zoning overlay district; and

9-110.3 Electronic Message Boards shall not be located on any façade, roof or other portion of any building.

9-111. Exempt Signs The following signs shall be allowed in any zoning district without a permit so long as they are located on private property and outside of any rights-of-way:

9-111.1 Directional Signs so long as they are off the rights-of-way and with a maximum sign face of four (4) square feet.

9-111.2 Flags of any nation, government, or non-commercial organization;

9-111.3 Government signs.

9-111.4 Real Estate Signs.

9-111.5 Memorial signs, cornerstones and similar signs containing the name of the building and date of erection, provided such signs are permanently installed on the building.

9-111.6 Interior window signs which consist entirely of letters, numerals, and symbols.

9-111.7 Political Sign.

9-111.8 Non-commercial seasonal displays customarily associated with a national, local, or religious holiday, provided such are not used to advertise the name of a product, service or business. Such displays shall be removed promptly after the holiday.

(Articles 9-109 through 9-111 were added on 02/18/2014)

ARTICLE X

TELECOMMUNICATION FACILITY REGULATIONS

SECTIONS

10-100 - INTENT
10-101 - DEFINITIONS
10-102 - PROCEDURES
10-103 - SITE PLAN REQUIREMENTS
10-104 - DEVELOPMENT PLAN
10-105 - DEVELOPMENT STANDARDS
10-106 - INSPECTIONS
10-107 - TEMPORARY FACILITIES

10-100. Intent - These regulations shall apply to Wireless Transmission Facilities located within the unincorporated territory of Sullivan County, Tennessee. The purpose of these requirements is to provide for wireless transmission services while minimizing the potential negative impact of these facilities on neighboring properties. Reasonable technical standards and site plan review procedures will be used to carefully and fairly evaluate the placement and impact of wireless transmission facilities.

10-101 Definitions

County - means Sullivan County, Tennessee.

Planning Commission - means Sullivan County, Tennessee Regional Planning Commission.

Mature System – shall mean an existing wireless transmission facility.

Tower – shall mean the base of any wireless transmission facility; including, but not limited to, a self-supporting tower and/or monopole, together with any antennae or other appurtenances.

User – shall mean any wireless telecommunications carrier utilizing wireless transmission facilities for the purpose of production or transmission.

Wireless Transmission Facilities – shall include buildings, cabinets, structures and facilities, including generating and switching stations, repeaters, antennas, transmitters, receivers, towers and all other buildings and structures relating to low-power mobile voice transmission, data transmission, video transmission, and radio transmission or wireless transmission accomplished by linking a wireless network of radio wave transmitting devices (including, but not limited to wire, cable, fiber optics, laser, microwave, radio, satellite, portable phones, pagers, mobile phones, or similar facilities) to the conventional ground-wired communications system (including, but not limited to telephone lines, video and/or microwave transmission) through a series of short range, contiguous cells that are part of an evolving cell grid.

10-102 Procedures - The construction and maintenance of wireless transmission facilities is provided for in this Resolution through a procedure that requires approval by the Sullivan County, Tennessee Regional Planning Commission. Wireless transmission facilities are permitted, subject to site plan review by the Planning Commission, within all zoning districts.

10-103 Site Plan Requirements - The owner or authorized agent of any property proposed for the location of a wireless transmission facility within the unincorporated territory of Sullivan County, Tennessee shall prepare and submit a site plan meeting the requirements of Article XII, Section 12-102.3, of the Sullivan County Zoning Resolution. In addition, the owner or authorized agent shall submit:

1. Information showing the relationship of the proposed development to:
2. The existing street system.
3. Existing zoning districts within a 500' radius.
4. The names and addresses of all adjacent property owners.
5. Proposed locations for future facilities.
6. The distance to and the location of the nearest adjacent wireless transmission facility.
7. A location map indicating the proposed facility and all surrounding wireless transmission facilities within a radial distance of 2,500 feet.

10-104 Development Plan - The site plan approved by the Planning Commission shall be valid for a period not to exceed one year. If construction of the wireless transmission facility is not 80% complete within one year and completed within 18 months of Sullivan County approval, the applicant shall be required to resubmit plans for appropriate review under the technical standards and review procedures applicable at the time of resubmission.

10-104.1 Technical Standards

1. Except in the instance of co-location, no wireless transmission facility shall be located closer than 2,500 feet to any existing wireless transmission facility without the review and approval of the Sullivan County Board of Zoning Appeals. Such approval shall be based on one or more of the following reasons:
   (a) The planned equipment would exceed the structural capacity of existing and approved tower design standards and planned use of those towers. Existing and approved towers could not be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
   (b) The planned equipment would cause radio frequency (RF) interference with other existing or planned equipment for these towers, and the interference could not be prevented at a reasonable cost.
   (c) Existing or approved towers would not have space on which planned equipment could be placed so it could function effectively and reasonably in parity with other similar equipment in place or approved.
   (d) Radio frequency coverage objectives.

2. Pursuant Article IV, Section 402 and 404, only one principal building and its customary accessory structures shall be erected on any lot unless the second or additional buildings meet all of the requirements of the district in which it is located. Towers located in any zoning district shall be located on a single lot with a minimum frontage on a public street of 40 feet.

   However, in the event that the underlying parcel of property upon which the proposed tower is to be located has (1) no public road frontage; or (2) has one or more other principal uses on such property, other than the proposed tower, and has less than 40 feet of frontage on a public street per principal use, the Applicant may apply to the Board of Zoning Appeals (BZA) for approval of a special exception for approval of the erection of the tower. In both cases, the legal status of the property in question shall be determined by Sullivan County Planning and Zoning Department, to be either a legal or legal but non-conforming lot or tract of land with regards to the minimum length of public road frontage required per principal use. When such a special exception is requested, the Applicant shall show that the tower compound has reasonable access for utilities, egress and ingress and that the addition of the tower to the underlying parcel will not overburden the underlying parcel of property. The Applicant shall submit with the application, the names and addresses of all the owners of property adjacent to the parcel of property where the tower is to be located. Notice of the application and the hearing for consideration shall comply with the provisions and process pursuant to Article X. All other applicable provisions of the Sullivan County Zoning Resolution shall apply. *(Amended June 18, 2001)*

3. The minimum distance from the base of a tower to any adjacent property or street right-of-way shall be equivalent to, or greater than, the height of the tower plus 25 feet. However, if a licensed structural engineer certifies the proposed tower is designed to collapse into an area smaller than the height of the tower plus 25 feet, the “clear fall zone” shall be the reduced area identified by the engineer, and the setback requirements for the tower in relation to all property lines (subject to the minimum frontage on a public street) shall be the radius of the reduced “clear fall zone” area identified by the engineer. Except for a support building(s) necessary for the proposed tower, no buildings or structures, shall be located within this required “clear fall zone”. The applicant shall submit evidence that it has permission to use the clear fall zone or that it has a lease, easement or other contract or agreement for the use of the clear fall zone. *(Amended June 18, 2001)*

4. Each telecommunications provider is allowed to have one (1) on-site detached accessory building not to exceed one (1) story in height and 400 square feet in area. If not attached, said accessory buildings shall be limited in number to no more than six (6) accessory buildings per tower compound. *(Amended June 18, 2001*).

5. National Standards - The applicant's engineer shall provide documentation that the proposed wireless transmission facility meets or exceeds the requirements of the American National Standards Institute (ANSI) for professionally acceptable radio frequency emissions standards.

6. Tower Height and Altitude Restrictions - Maximum tower height shall be 195 feet, unless specifically allowed due to topographic conditions located within 1 mile of the proposed wireless transmission facility. No wireless transmission facility shall extend more than 150 feet above the ridgeline or tree line of any surrounding knob areas.

7. Structural Requirements - Prior to the approval of any commercial telecommunications tower, the applicant shall provide the Planning Commission with written certification from a registered structural engineer that, as per ANSI standards, the tower is able to minimally withstand winds of 70 miles per hour with ½ inch radial ice, and/or winds of 100 miles per hour, and/or wind gusts of 130 miles per hour, whichever is greater. For towers placed on buildings, the applicant shall also provide the Planning Commission such written certification, plus evidence that the building itself is structurally capable of supporting the tower and its accompanying equipment. The tower must not affect the structural integrity of the building. Wireless transmission facilities shall be designed in accordance with approved design standards.

10-104.2 **Shared Use** - The shared use of existing towers, or the placement of commercial telecommunications towers at locations adjacent to a mature wireless facility, or wireless transmission facilities incorporated with existing power transmission line towers, shall be encouraged whenever possible.

1. The applicant shall also address the extent to which shared use of the proposed tower will be allowed in the future. A letter of intent committing the tower owner and his or her successors to allow shared use of the tower, if any applicant agrees in writing to pay any reasonable charge for shared use, shall be filed in the office of the Sullivan County Building Commissioner prior to issuance of a building permit.

2. The applicant's plan must demonstrate how shared facilities would potentially be situated on proposed sites. Towers and/or structures shall be required to be designed for multi-tenants upon initial installation, i.e., designed for 2 sets of fully sectored antenna arrays.

10-104.3 **Required Location** - For new facilities not co-located or constructed adjacent to a mature wireless facility, the applicant shall submit written certification by a registered electrical engineer that the proposed tower must be placed at the approximate location, and that co-location is not technically a viable option.

10-104.4 **Required Demolition** - Any approved wireless transmission facility not used for active wireless transmission for a period of 12 months shall be required to be demolished and removed upon order of the Sullivan County Building Commissioner, unless otherwise approved by the Sullivan County Planning Commission. Prior to the approval of any proposed wireless transmission facility, the applicant shall prepare a contract to ensure such demolition and removal that is deemed satisfactory by the County Attorney. Upon approval of the site plan, but prior to the issuance of a building permit, the applicant shall execute such contract.

10-105 **Development Standards -** The following provisions shall apply:

1. A minimum 25-foot buffer strip shall be required on the outer perimeter of the leased area. This standard shall not supersede any agreement or regulation that may provide for a greater buffer strip than outlined above.

2. The buffer strip shall consist of plantings and physical features sufficient to screen the view beginning at a specified level, reduce glare and noise, and provide greater privacy for nearby residential uses. The buffer shall be initially installed for the permanent year-round protection of adjacent property by visually shielding internal activities. Design, width, height, opacity, growing period to maturity, time schedule for installation, and responsibility for perpetual maintenance of the buffer strip shall be submitted to and approved by the Planning Commission. See Appendix A for buffer strip definition and details.

3. 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, in the opinion of the Planning Commission and/or planning director, meet the intent and purpose of this section. In instances where significant physical features exist (railroads, major roads, hillsides, preserved wooded areas, utility easements, etc.), which in the opinion of the

Planning Commission and/or planning director provide adequate buffering between land uses, the existing buffers may be used to meet landscaping provisions of this section.

4. Security fencing shall be required for all wireless transmission facilities unless specifically waived in the instance of co-location. When any wireless transmission facility is proposed within any residential district, or within 500 feet of a residential structure, the Planning Commission may require fencing constructed of wood or masonry in addition to a required security fence.

5. Wireless transmission facilities mounted on a building or structure in a commercial district shall be screened and/or designed to blend visually with the roof and/or structure and surroundings where mounted. Such methods and materials shall only require approval by the Planning Commission.

6. Prior to the issuance of a building permit, security acceptable to the County shall be required to ensure completion of all landscaping and screening provisions as outlined in the plan approved by the Planning Commission. The security shall be posted in an amount equal to 110% of the total cost of the materials and installation of said improvements. Upon the issuance of a certificate of occupancy for the building, or upon the completion of construction of the wireless transmission facility, if no certificate of occupancy is required, a maintenance bond, letter of credit, or similar security acceptable to the County shall be required for a period of one year to ensure that the vegetation remains as a living and viable screen.

7. Off-Street Parking - Off-street parking space shall be provided for each wireless transmission facility.

8. Lighting - Outside lighting, if required for safety and security purposes, shall be arranged so as to minimize glare and reflection on adjacent residential properties and public streets. The Planning Commission may require the submission of a lighting plan by a qualified professional engineer to ensure that the illumination of outside lighting as designed and installed does not exceed 0.4 foot candles, measured at the property line of abutting property zoned for residential use or development. Wireless transmission facilities shall not be artificially lighted unless required by the Federal Aviation Administration or other governmental authority.

9.Signs – Signs identifying the wireless transmission facility may be allowed providing such signs:

(a) Do not exceed 10 square feet.
(b) Are not illuminated.
(c) Comply with all other requirements of the Sullivan County sign regulations.
(d) No additional commercial signs shall be allowed.

10. Vehicle Access Control - The location and design of driveways and/or accesses to reach the facility from a public street shall be approved by the Sullivan County Regional Planning Commission.

11. Erosion Control and Storm Water Management - The control of erosion during development, and the design of drainage systems suitable to handle storm water runoff after the site is developed shall be approved by the Sullivan County Regional Planning Commission.

12. Noise - The intensity level of sound from the wireless transmission facility, including temporary generators used during extended power outages, measured at the property line of abutting property zoned for residential use or development, shall not at any time exceed 70 decibels.

13. Underground Electric – Underground electrical service shall be provided to the site. No new utility poles shall be installed. Any grading and clearing of land for the installation of such underground service, shall be stabilized with effective erosion control mats, seed and straw. The plantings, as required by the landscaped areas, shall also be installed unless in conflict with any utility easement.

10-106 Inspections

1. The user shall provide the Sullivan County, Tennessee Building Official with a letter of certification from the contractor, indicating that the wireless transmission facility was constructed according to the plans approved by Sullivan County. The letter shall be submitted within 30 days of completion of the facility.

2. The user shall provide the Building Official with a copy of the Tennessee State Electrical Inspector's Report, which ensures that the user met code requirements during construction of the facility.

3. The user shall provide the Building Official with a certified copy of the engineer's annual inspection report, which includes but is not limited to the condition of the grounding system, the structural integrity of the facility, any damage incurred over the past year, the condition of the bolts, and a plan to correct any deficiencies.

10-107 Temporary Wireless Telecommunications Facilities - The following temporary uses may be review and permitted by the building commissioner and subject to Article XII.

10-107.1 Temporary Wireless Telecommunication Facilities During Construction - A temporary wireless transmission facility may be established on the site of an existing wireless transmission facility when such existing facility is out of service or during construction of an already approved and permitted permanent facility. The maximum height of such temporary facility cannot exceed the height of the permanent facility as approved. Such temporary permit shall be valid for a period of no more than three (3) months in a calendar year period.

10-107.2 Temporary Wireless Telecommunication Facilities During a Special Public Event -
A temporary wireless transmission facility may be erected on any parcel of five (5) acres or more for the purpose of short term relief of expected frequency volumes during a scheduled and approved special public event. The temporary wireless facility permit shall be valid for a period of no more than 15 fifteen consecutive days and no more frequent than (3) three times in one calendar year. Such facility shall be limited to 100 feet in height and shall setback a minimum of 100 feet from any habitable structure or building.

ARTICLE XI

PROVISIONS GOVERNING NONCONFORMING USES AND NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

SECTIONS

11-101 STATEMENT OF PURPOSE
11-102 PROVISIONS GOVERNING NONCONFORMING USES
11-103 NONCOMPLYING BUILDINGS OR OTHER STRUCTURES
11-104 SUBSTANDARD RESIDENTIAL LOTS

11-101 STATEMENT OF PURPOSE - The districts established in this resolution (as set forth in district regulations, in ARTICLES III through V) are designed to guide the future use of land in Sullivan County, Tennessee, by encouraging the development of desirable residential, commercial, and manufacturing areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses, which adversely affect the development of such areas, must be subject to certain limitations. The provisions governing nonconforming uses set forth in this article are, therefore, established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this resolution is designed to restrict any expansion of such uses beyond the site, which the use occupied upon the effective date of this resolution.

In the case of buildings or other structures not complying with the bulk regulations of this resolution, the provisions governing non-complying buildings or other structures set forth in this article are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance.

These provisions are thus designed to preserve the character of the districts established in this resolution in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare. The following provisions are pursuant to TCA 13-7-109, 13-7-208 and all other State codes.

11-102 PROVISIONS GOVERNING NONCONFORMING USES

11-102.1 Applicability - The provisions of this article are applicable to all uses that are not permitted within the districts wherein they are located. Additionally, buildings and other structures located within the floodplain are considered within the regulation of nonconforming uses.

11-102.2 Construction or Use Permit Approved Prior to Resolution Adoption - Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this resolution, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this resolution and completion thereof carried on in a normal manner within the subsequent twelve (12) months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not ***substantially*** underway and being diligently pursued within the twelve (12) month period following the issuance of a building permit, then such permit shall automatically lapse and the provisions of this resolution shall apply.

11-102.3 Repairs and Alterations - Nothing in this article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

11-102.4 Continuation of Nonconforming Use - Any nonconforming use which existed lawfully at the time of enactment of this resolution and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this resolution, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use (see Subsection 12-102.5) is undertaken.

11-102.5 Change of Nonconforming Use

1. General Provisions - For the purpose of this article, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use. A nonconforming use may be changed to any conforming use, when determined by the Planning Commission as a lesser offensive use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements - In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Nonconforming to Conforming Use - Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

4. Nonconforming to Less Intense Use - Any building containing a nonconforming use shall not be changed to another nonconforming use unless it is determined by the Planning Commission that such use is less offensive with regards to impact upon adjacent properties than the previous use.

11-102.6 Expansion of Nonconforming Uses - Any nonconforming use which shall become nonconforming upon enactment of this resolution, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions set out below.

1. Land with Incidental Improvements - In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

2. Adequate Space for Expansion - No expansion of any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this resolution, upon any open space required by this resolution.

3. Application of Other Provisions to Expanded Facilities - In the event that any proposed expansion or addition is valued at less than fifty (50) percent of the assessed valuation (as recorded on the most current edition of the property tax records) of the improvements located upon the site, all provisions of this resolution other than those which would act to eliminate the use of the property, shall be applicable to the expansion or addition. In the event, however, that the proposed expansion or addition is valued at fifty (50) percent or more of the assessed valuation of the improvements located upon the site, all provisions of this resolution other than those which would act to eliminate the use of the property, shall apply both to the existing facilities, as well as the expansion or addition.

4. Expansion Limited - Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming, and said expansion is approved by the **Sullivan County Regional Planning Commission.** Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land. Where parking, open space or other provisions of this resolution may so require, future expansions or additions shall be limited to that which can be accommodated without creating any new noncompliance.

5. Expansion upon Land Subject to Flood - No expansion of any nonconforming use shall violate the provisions of the Flood Hazard Prevention Ordinance as adopted by Sullivan County pursuant to the Federal Flood Insurance Program.

11-102.7 **Damage or Destruction** - Any use which shall become nonconforming upon enactment of this resolution, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve an actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.

1. Change in Use Prohibited - No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use (as regulated in Subsection 11-102.5, above) to other than a permitted use.

2. Land with Minor Improvements - In all districts, when a nonconforming building or other structure or improvements located on "land with Incidental improvements" (as defined by this resolution) is damaged or destroyed to the extent of fifty (50) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall be reviewed for approval by the Planning Commission and the tract of land shall, thereafter, be used only for a conforming use.

3. Infringement upon Open Space Restricted - No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this resolution.

4. Damage or Destruction of Buildings or Other Structures - In all districts, when any building or other structure which is substantially occupied by a nonconforming use is damaged or destroyed to the extent of fifty (50) percent or more of the assessed valuation (as recorded on the most current edition of the property tax records) of the improvements located upon the site, such building or other structure may be reconstructed provided that no such action shall increase the extent of any infringement upon any open space required by this resolution and that the reconstructed buildings, structures and other site improvements, shall comply as fully as possible with all other provisions of this resolution. When the extent of damage or destruction is less than fifty (50) percent of the assessed valuation of the improvements, the nonconforming use may be continued and the buildings or other structures may be restored provided that:
    a. A building permit pertaining to such restoration is applied for and issued within one (1) year of such damage or destruction.
    b. A certificate of zoning compliance is issued within one (1) year after the issuance of the building permit.
    c. Such restoration shall not cause a new nonconformance nor increase the degree of nonconformance or noncompliance existing prior to such damage or destruction. Otherwise, the nonconforming use shall be deemed to have ceased active operation and the provisions of Subsection 11-102.8, shall apply.

5. Reconstruction of Flood Damaged Property - The provisions of the Sullivan County Flood Damage Prevention Ordinance, Special Provisions Governing All Buildings Within Floodplain Districts, shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within the floodplain district.

11-102.8 **Discontinuance** - When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of **one (1) year**, then the land or building or other structure shall thereafter be used only for a conforming use. Intent to resume active operations shall not affect the foregoing provision.

11-103 NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

11-103.1 **General Provisions** - The provisions of this section shall control buildings and other structures, which do not meet the bulk or any other provisions applicable in the districts in which they are located, except those provisions, which pertain to activity or use.

11-103.2 **Continuation of Use** - The use of a non-complying building or other structure or parcel may be continued, except as, otherwise, provided by this section.

11-103.3 **Repairs and Alterations** - Repairs, incidental alterations, or structural alterations may be made in non-complying buildings or other structures subject to the provisions of Subsection 11-103.4.

11-103.4 Enlargement of Conversion

1. Adequate Space for Expansion - No expansion or enlargement of any non-complying building or other structure may be made which would either create a new noncompliance or increase the degree of any previously existing noncompliance of any building or other structure or parcel or portion, thereof.

2. Application of Other Provisions to Expanded Facilities - In the event that any proposed expansion or addition to a non-complying building or structure is valued at less than fifty (50) percent of the assessed valuation (as recorded on the most current edition of the property tax records) of the improvements located upon the site, all provisions of this ordinance shall be applicable to the expansion or addition. In the event, however, that the proposed expansion or addition is valued at fifty (50) percent or more of the assessed valuation of the improvements located upon the site all provisions of this ordinance shall apply to both the existing facilities, with the exception of any pre-existing non-complying conditions, and the expansion or addition.

11-103.5 Damage or Destruction of Non-complying Buildings and Other Structures - In all districts, when any non-complying building or other structure is damaged or destroyed such building or other structures may be restored provided that such restoration shall not cause a new noncompliance nor increase the degree of noncompliance existing prior to such damage or destruction.

11-104 SUBSTANDARD RESIDENTIAL LOTS - Within all districts where residential uses are authorized, one dwelling may be built upon a lot, which was of record upon the date of adoption of this ordinance or amendments herein, providing such lot has a permit for a subsurface sewage disposal system (SSDS) through the State of Tennessee, Department of Environment and Conservation or is connected to public sewer. This means, that as long as the deed for a parcel of land was recorded prior to the adoption of this ordinance or any subsequent amendments, and was legal at the time of said recordation, then it will be classified as a legal lot-of-record. However, if the deed was recorded and did not conform to the local regulations at the time and still does not meet these requirements herein, then the parcel is not determined to be a legal lot-of-record. Substandard parcels will only be given legal, but non-conforming status if they met all legal requirements at the time of said recordation. Proof of public or private sewage permits and copy of recorded deed shall be required prior to any issuance of a building permit.

ARTICLE XII

ADMINISTRATION AND ENFORCEMENT

SECTION

12-101 APPOINTMENT AND DUTIES OF THE BUILDING COMMISSIONER
12-102 ZONING PERMITS
12-103 BOARD OF ZONING APPEALS
12-104 ZONING VARIANCES
12-105 SPECIAL EXCEPTION PERMITS
12-106 AMENDMENTS
12-107 REMEDIES AND ENFORCEMENT
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12-110 EFFECTIVE DATE

12-101 APPOINTMENT AND DUTIES OF THE BUILDING COMMISSIONER

12-101.1 Appointment of the Building Commissioner - There is hereby created the office of Zoning Administrator, formally and hereafter called the Building Commissioner. The Building Commissioner shall be appointed by the County Mayor in accordance with all applicable administrative procedures.

12-101.2 Duties of the Office of the Building Commissioner - The Building Commissioner shall enforce this resolution, and in addition thereto and in furtherance of said authority he is granted the following authority and responsibility:

1. Interpretation and Administration - The Building Commissioner shall interpret and administer the provisions of this resolution.

2. Application Processing and Review - The Building Commissioner shall process and review all applications for all zoning permits and site plans to insure compliance with the provisions of this resolution and with approvals granted by other departments, and/ or boards, as applicable.

3. Zoning Permits and Certificates of Compliance - The Building Commissioner shall be authorized to issue zoning permits, to certify zoning compliance, to stop work that has commenced without obtaining a required zoning permit, and to impose double fees for a zoning permit when work has commenced or occupancy occurs without obtaining a required zoning permit;

4. Enforcement of this Resolution - The Building Commissioner shall be responsible for enforcing all provisions of this resolution.

5. Information and Advisement - The Building Commissioner shall provide information to the public on all matters relating to this resolution.

6. Maintain Records
   The Building Commissioner shall maintain permanent and current records of this resolution, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variations, appeals, and applications therefore.

7. Right of Entry - The Building Commissioner is authorized to enter upon any land within the jurisdiction of this resolution for purposes of making examinations and surveys, conducting inspections of buildings, structures, and use of land to determine compliance with the provisions of this resolution to and place or remove public notices as required by this zoning resolution.

12-101.3 Powers of the Building Commissioner Regarding Enforce Performance Standards
When the Building Commissioner has reason to believe that there is a violation of applicable performance standards, he or she may issue notice specifying the nature of the alleged violation and demanding that it be corrected. The Building Commissioner may engage appropriate governmental agencies or other experts to perform tests to determine the existence and extent of the violation. Where other experts are employed and a violation is verified, the owner of the use shall pay all test costs and correct the violation. If the owner does not correct the violation within a reasonable time, the Building Commissioner may proceed to enforce as with any other violation.

12-101.4 Board of Zoning Appeals Support - It shall be the responsibility of the Building Commissioner to provide support services to the Board of Zoning Appeals. These services shall include the following.

1. Administrative Coordination - The Building Commissioner shall receive, file, and forward to all necessary agencies all applications for conditional uses, and for amendments to this resolution;

2. Administrative Support - The Building Commissioner shall receive, file, and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to pass under the provisions of this resolution.

12-101.5 Duties of the Building Commissioner in Enforcing Floodplain District Provisions - In the enforcement of the provisions of the Floodplain District regulations the Building Commissioner shall:

1. Review all development permits to assure that the requirements of this resolution have been satisfied, and that proposed building sites will be reasonably safe from flooding.

2. Advise permittees that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404, of the Federal Water Pollution Control Act Amendments, of 1972, 33 U. S. C. 1334.

3. Notify 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 submit evidence of such notification to the Federal Emergency Management Agency.

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Verify and record the actual elevation (in relation to mean-sea-level) of the lowest floor (including basement) of all new or substantially improved buildings.

6. Verify and record the actual elevation (in relation to mean-sea-level) to which the new or substantially improved buildings have been flood-proofed.

7. When flood-proofing is utilized for a particular building, the Building Commissioner shall obtain certification from a registered professional engineer or architect.

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 Building Commissioner shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity as provided in this article to appeal the interpretation.

9. When base flood elevation data or floodway data have not been provided then the Building Commissioner shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements or other development in Zone A, on the Community FHBM or FIRM, meet the requirements of this article.

12-102 ZONING COMPLIANCE PERMITS (BUILDING PERMITS)

12-102.1 Permits Required

1. General - Except as provided for agricultural uses and activities in Subpart 2, of this section, it shall be unlawful to commence excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including expansion, to use a building or structure, or to commence the filling of land within any flood prone area without a permit therefore, issued by the Building Commissioner.

2. No building permit shall be issued by the Building Commissioner, except in conformity with the provisions of this resolution, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, conditional use/special exception, or variance as provided by this resolution or as a use-on-review by the Planning Commission.

3. Agricultural Uses of the Land - As stipulated in Section 13-7-114, Tennessee Code, nothing within this resolution shall be construed as authorizing the requirement neither for building permits nor for providing for the regulation of the erection, construction, or reconstruction of any building or other structure where such building or structure is incidental to an agricultural enterprise or solely used for agricultural purposes.

12-102.2 Application for a Building Permit - Application for a building permit shall be made in writing to the Building Commissioner on forms provided for that purpose. Applications for building permits will be accepted only from persons having legal authority to take action in accordance with the permit. In general, this means that the application should be made by the owners or lessees of the property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this resolution, or the agents of such persons. The Building Commissioner may require an applicant to submit evidence of his authority to submit the application for a building permit whenever there appears to be a reasonable basis for questioning this authority. ***All applications shall be completed before the Building Commissioner is required to consider the application. Proof of other required permits from other agencies, if applicable, shall be submitted prior to issuance of a building permit. Other such applicable permits shall be, but not limited to, driveway connections approved by the Tennessee Department of Transportation and septic permits from the Tennessee Department of Environment and Conservation, Division of Ground Water Protection. A copy of the septic field bed grid layout, as defined, approved and prepared by TDEC, shall be submitted to the county prior to issuance of a building permit.**

12-102.3 Plan Requirements - Plans containing the information required for the particular use by this section must be submitted to the Building Commissioner at the time of an application for a building permit. It is specifically anticipated that the approval process for one- and two-family detached houses and individual manufactured homes shall be administratively approved by the Building Commissioner. All other uses shall only be approved in the manner set forth in Subpart 2, of this section. Planning Review of proposed designs, layout, and other site plan requirements may be encouraged prior to formal application.

1. Plot Plans Required for One- and Two-Family Detached Houses and Individual Manufactured Homes Where a Subdivision Plat, as Approved, is not Available:
    a. The actual shape, location, and dimensions of the lot to be built upon.
    b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
    c. The existing and intended use of all such buildings or other structures, upon it, including the number of dwelling units the building is intended to accommodate.
    d. The size and location of all yards and open areas required by this resolution.
    e. The dimension and location of all public water and sewer lines from which the property is to be served.
    f. The location and approximate dimension of all points of access to a public street or road.
    g. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this resolution are being observed.
    h. Where subsurface sewage disposal is anticipated, certification from the county office of the Tennessee Department of Environment and Conservation approving the lot for such use.

2. Site Plans Required for All Other Buildings and Activities - This procedure is to be utilized for all buildings and activities except those subject to the provisions of Subpart 1, of this section. Unless otherwise specified, the reviewing agency shall be the Sullivan County Regional Planning Commission and/or planning staff. Such plans shall be prepared by a licensed and qualified professional, such as an engineer, surveyor, or landscape architect. Additional information may be required for certain uses such as multi-family dwellings or manufactured home parks. In such instance this information shall be in addition to the basic information required by this section. All site plans shall be drawn to scale using a standard engineering scale.

3. The Following Information Shall Be Included in the Site Plan:
   a. General Location Sketch Map at a Scale Not Smaller Than 1"=2,000', Showing:
      i. The approximate boundaries of the site.
      ii. External (public access streets or roads in relation to the site).
      iii. Surrounding development (i.e. residential, commercial, and manufacturing areas) within the general vicinity of the site.
   b. A Site Development Plan Drawn at a Scale No Smaller Than 1"=50' Showing:
      i. The actual shape, location, and dimensions of the lot.
      ii. The shape, size, and location of all buildings or other structures already on the lot.
      iii. The existing and intended use of the lot and of such structures upon it, including, for residential activities, the number of dwelling units the buildings are intended to accommodate.
      iv. Topographic features, both existing and proposed, with contours at a vertical, interval no greater than five (5) feet (requirement may be waived per staff discretion).
      v. Location of all driveways and entrances.
      vi. Location of all accessory off-street parking areas to include a plan showing design and layout of such parking facilities where five (5) or more accessory off-street parking spaces are to be provided. (Dimensions shall be shown.)
      vii. Location of all accessory off-street loading docks.
      viii. Location of open space.
      ix. Proposed ground coverage, floor area, and building heights.
      x. Position of fences and walls to be utilized for screening (materials specified).
      xi. Position of screen planting (type of planting specified).
      xii. Proposed means of surface drainage, including all drainage ways and facilities.
      xiii. Location of all easements and rights-of-way.
      xiv. Location of areas subject to flooding.
      xv. Location and size of all utilities including all fire hydrants.
      xvi. Location, type, and size of proposed signs.
      xvii. Signature of the owner, operator or developer of the property.
      xviii. Location and plan for erosion and sediment controls per Subsection 8-103.4.
      xix. **Site plan paper size 18"x24" or 24"x 36" for plan submittal AND reduced to 8 ½ "x 11" to be attached to Certificate of Occupancy after final inspection.**

12-102.4 Fees - The Sullivan County Commission shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the Office of the Building Commissioner. Only the County Commission may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application. All fees are controlled by Section 12-109 of this Article.

12-102.5 Issuance of Permit - If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this resolution, the Building Commissioner shall issue a building permit for such excavation or construction. If an application for a building permit is not approved, the Building Commissioner shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this resolution. **Acceptance of the building application does not constitute approval of plans or guarantee issuance of a permit.**

12-102.6 Construction Progress - Due to changing conditions within the planning region, it is necessary to establish specific time periods after the passage of which approved plans shall become null and void, thereby assuring that no new development will, due to altered conditions, etc., damage the public interest.

1. Time Limit on Site Development Plans - Any site development plan approved under the provisions of this resolution shall become null and void one (1) year after the date of its approval, unless a building permit for the project has been obtained in such case the provisions of Subpart, 2, of this section, shall apply,

provided, however, that in no instance shall an approved plot plan or site development plan become null and void in less than one (1) year.

2. Time Limit on Building Permit - Any building permit issued becomes invalid if work authorized is not commenced within one (1) year of the date of issuance. All exterior construction shall be completed within (36) thirty-six months from the date of permit, and a Certificate of Occupancy requested and approved or such permit shall become invalid and a new permit must be purchased.

12-102.7 Construction to be in Accordance with Approved Plans - In general, all site construction and development activity shall proceed in strict compliance with the final site development plan as approved. Minor modifications in the terms and conditions of the approved development plans may be made from time to time as provided in the following paragraphs. Any proposed modification, which is not permitted under these provisions, may be approved only as an amendment to the development plan. (See Subpart 4, below).

1. Minor Modifications During Construction - The Building Commissioner may approve minor modifications in the location, siting, and configuration of buildings and structures if required by engineering or other circumstances not foreseen at the time the development plan was approved so long as:
    a. No modification violates any provision of this resolution;
    b. No modification involves an item for which modification is prohibited under the provisions of Subpart 3, below; and
    c. The total of such modifications approved by the Building Commissioner shall **never in aggregate** result in:
        i. Any increase in residential density (i.e., number of dwelling units permitted);
        ii. An increase of more than three (3) percent in the total ground area covered by buildings, provided that no such increase shall be permitted which would exceed the impermeable surface ratio established for the site;
        iii. A reduction of more than two (2) percent in the area set aside for open space (exclusive of parking area green spaces and required screening areas);
        iv. Movement of a point of access by a distance greater than twenty-five (25) feet.
    d. No modification may be approved which is greater than the absolute minimum necessary as defined by the provisions of Subpart 2, (below) of this section.

2. Minimum Adjustments Only - Any modification identified below must be held to the minimum necessary. The Building Commissioner must find that each of the following conditions apply to the particular circumstances prior to the granting of the adjustment.
    a. Practical Difficulties or Unnecessary Hardship - Which strict application of the provisions of this resolution would result in practical difficulties or unnecessary hardship.
    b. Extraordinary Circumstances - That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings or uses referred to in the application, which circumstances or conditions do not apply generally to other land, buildings or uses in the same district.
    c. Not Detrimental - That granting the application will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood of the premises.
    d. Health or Safety not Adversely Affected - That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.
    e. Maintains Intent of Resolution and the Development Plan - That such adjustment is within the intent and purpose of the resolution and will not adversely affect the community objectives of the comprehensive plan.

3. Subjects not Included for Modification - The following are not subject to modification under the provisions of this section:
    a. Uses permitted;
    b. Increases in the number of dwelling units or nonresidential floor area permitted;
    c. Building height (exception minor modifications in non-occupied portions of the building);
    d. A reduction of the number of required parking spaces;
    e. Significant changes to the drainage pattern, as determined by the County Planner;
    f. Any reduction in required screening area or planting plan unless natural established similar plant material is maintained and undisturbed; and
    g. Any reduction in the minimum required vision clearance area (sight visibility area).

4. Amendments to Approved Final Site Development Plans - Any modification to an approved site plan, which exceeds the minor modifications that may be approved by the Building Commissioner, shall only be approved as provided herein. All such amendments to development plans shall be presented to and acted upon by the Planning Commission. Should the Planning Commission approve the amendment to the site plan, the applicant may proceed with the amended plan as a basis for modifications. In the event that the Planning Commission disapproves the proposed modifications, the applicant may either proceed with the original plan or appeal the decision to the Board of Zoning Appeals.

5. Performance Bond – In Lieu of Completion – Any site operator, owner or developer acting as the agent of the property may apply to the Planning Commission for an assurance performance bond to be posted for minor site improvements only if special, unforeseeable circumstances interfere with the timely completion of the project as approved by a site plan. Performance Guarantees shall be accepted pursuant Sullivan County Subdivision Regulations – Section 4B. The department may allow a signed and notarized contract between the property owner/developer and the contractor, such as a paving or landscaping company, which will allow the completion of paving and/or landscaping to be completed by the next paving or planting season. The Planning Commission may forfeit all paving, if it is not conducive to the type of business being operated or to prevent water run-off on to adjoining properties *(amended on August 15, 2005 – See Zoning Article 7-104.2 and the Subdivision Regulations Section 4-B for Performance Bond approval process).*

12-102.8 Certificate of Occupancy - Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building commissioner for a certificate of occupancy. Within three days of such application, the building commissioner 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 a certificate is refused, the building commissioner shall state such refusal in writing, with the cause. No land or building hereafter erected or altered initial use, shall be used until such a certificate of occupancy has been approved. Moreover, it shall be unlawful to attach permanent electrical service until a certificate of occupancy is issued.

12-103 BOARD OF ZONING APPEALS

12-103.1 Establishment - Pursuant to Sections 13-7-106 through 13-7-109, Tennessee Code Annotated, a Board of Zoning Appeals (hereinafter referred to as the "Board" or BZA) is created. The BZA shall be governed by the following limitations and procedures, as well as, the official By-Laws of the Sullivan County Board of Zoning Appeals.

12-103.2 Powers of the Board - The Board is hereby vested with the following powers:

1. Administrative Appeals - Pursuant to Section 13-7-109, (1), Tennessee Code Annotated, the Board shall hear and decide appeals from any order, requirement, decision or determination made by the Building Commissioner or any other administrative official in carrying out the enforcement of this zoning resolution, whereby it is alleged in writing that the Building Commissioner is in error or acted arbitrarily.

2. Variances - Pursuant to Section 13-7-109, (3), Tennessee Code Annotated, the Board shall hear and act upon applications for variances to alleviate hardships created as a result of unique shape, topography or physical features of the zone lot.

3. Special Exception Permits - Pursuant to Section 13-7-109, (2), Tennessee Code Annotated, the Board shall hear and act upon applications for special exception permits. For the purposes of this resolution, conditional uses shall be synonymous with "special exceptions", as controlled by Section 13-7-109, Tennessee Code.

4. Referred Matters - Hear and act upon all matters referred to it on which it is required to act under this resolution.

5. Right of Entry upon Land - Enter upon any land within its jurisdiction to make examinations and surveys and place or remove public notices as required by this resolution.

12-103.3 **Membership** - The Board shall consist of five (5) members who have been bona fide residents of the County for not less than three (3) years prior to appointment and who shall continue to be so eligible as long as they serve. Board members shall be appointed by the County Commission.

12-103.4 **Terms of Office, Removal and Vacancies** - Board members shall each serve for a five (5) year term, or until their respective successors are appointed and qualified. The Board first appointed shall serve respectively for the following terms:

> **One member for one (1) year, two members for two (2) years, and two members for three (3) years.**

All members of the Board shall serve with such compensation as may be fixed by the County and may be removed from membership on the Board for continued absence or just causes. Any member being so removed shall be provided, upon request, a public hearing upon the removal decision. Vacancies of said Board shall be filled for the un-expired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

12-103.5 **Election of Officers** - The Board shall elect from its members its own chairman and vice-chairman, who shall serve for one (1) year and may upon election serve succeeding terms. The absence of the chair and vice-chair shall conclude such meeting due to a lack of quorum. The County shall provide necessary secretarial services.

12-103.6 **Conflict of Interest** - Any member of the Board who shall have a direct or an indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

12-103.7 **Meetings of the Board** - Regular meetings shall be held at specified times and at such other times as the Board may determine. The chairman, or in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper notice of such meetings shall be given.

12-103.8 **Rules and Proceedings of the Board** - The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

1. The presence of three (3) members of the Board shall constitute a quorum and the concurring vote of at least three (3) members – a quorum - of the Board shall be necessary to deny or grant any application before the Board.

2. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in the city at least ten (10) days before the hearing of an appeal. No appeal shall be considered and heard by the Board less than fifteen (15) days after filing such appeal. If new information is uncovered regarding an action of the Board that could not have been reasonably presented in public hearing before the Board, the Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.

3. The Board may call upon any other office or agency of the County Government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required.

4. The Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of record of such public hearing.

5. Any officer, agency or department of the County or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided by State law.

6. Any decision made by the Board on a special exception permit shall indicate the specific section of this resolution under which the permit is being considered and shall state clearly the specific conditions imposed in granting such permit.

7. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board, upon good cause being shown.

8. At the public hearing of the case before the Board, the Appellant shall appear on his own behalf or be represented by counsel or agent. The Appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

12-103.9 **Stay of Proceedings** - An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Commissioner certifies to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of competent jurisdiction application, on notice to the Building Commissioner, and on due cause shown.

12-103.10 **Liability of Board Members, Building Commissioner and Employees** - Any Board member, Building Commissioner, or other employee charged with the enforcement of this resolution, acting for Sullivan County, in the discharge of his/her duties, shall not thereby render themselves liable personally, and all such persons are hereby relieved from all personal liability and shall be held harmless by the County of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, Building Commissioner, or employee charged with the enforcement of any provision of this resolution shall be defended by legal representatives furnished by the County until the final termination of such proceedings.

12-103.11 **Right of Entry upon Land** - The Board, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this resolution.

12-103.12 **Re-hearings**

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

2. If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by resolution in each case, stipulate.

3. No request to grant a rehearing will be entertained, unless new evidence is submitted which could not reasonably be presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

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

12-103.13 **Time Limitations on Obtaining Permits** - All permits authorized by the Board of Zoning Appeals after the effective date of this resolution, whereby variances, or conditional uses are granted, shall be obtained within three (3) years from the date of the original authorization by the Board, otherwise, the right to obtain said permit shall expire and become invalid.

12-104 **ZONING VARIANCES** - The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this section.

12-104.1 **Limits to Jurisdiction** - Applications for variances to the following shall not be considered by the Board.

1. Intensity Increases - The Board shall not grant any variance permitting an increase in floor area or density above the maximum permitted by the zoning district.

2. Non-permitted Uses - The Board shall not grant any variance to allow a use other than those specifically authorized by this resolution in the applicable zoning district.

3. Lack of Frontage - The Board shall have no jurisdiction to hear a variance from the denial of a zoning/building permit when such denial is due to the fact that such lot has no frontage on a public street, unless such lot is deemed a lot-of-record (legal lot prior to September 1, 1988).

12-104.2 Application for Variances, Fee - A written application for a variance shall be filed with the Board by the property owner or his designated agent on forms provided by the Board and the application shall contain information and exhibits as may be required under Subsection 12-102.3. No more than ninety (90) days after the filing of the application, a hearing shall be held on the application, unless, otherwise, withdrawn or postponed by written request by the applicant. A fee payable to the County shall be charged to cover review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

12-104.3 Notice to Affected Property Owners - A public hearing shall be conducted with notice, thereof, provided as specified in Section 12-108.3 - *Notice by Letter*, of this article, on any request for variance brought before the Board *(amended on May 17, 2010).*

12-104.4 Standards for Variances - The Board shall not grant a variance, unless it makes findings based upon evidence presented as follows:

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of the original Zoning Resolution *(September 1, 1988*), or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this resolution would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.
2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
3. That the variance will not authorize activities in a zone district other than those permitted by this resolution.
4. That financial returns only shall not be considered as a basis for granting a variance.
5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning district wherein such property is located or of the general provisions of this zoning resolution.
6. That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this resolution.

12-104.5 Nonconformity Does Not Constitute Grounds for Granting of a Variance - No nonconforming use of neighboring lands, structures, or buildings in the same district, and not permitted or nonconforming use of lands, structures, or building in other districts shall be considered grounds for the issuance of a variance.

12-104.6 Conditions and Restrictions by the Board - The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this resolution. The Board may establish expiration dates as a condition or as a part of any variances.

12-104.7 Board Has Powers of Administrative Official on Appeals; Reversing Decision Of Staff
In exercising the powers granted to it the Board of Appeals may, so long as such action is in conformity with the terms of this resolution, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made, and to that end shall have the powers of the Building Commissioner from whom the appeal is taken.

The concurring vote of a majority of the entire membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Commissioner, or to decide in favor of the applicant on any matter upon which it is required to pass under this resolution, or to effect any variation in the application of this resolution.

12-104.8 **Variance Appeals** - Any person including any agency of the County Government aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this article shall be final and subject to review only for illegality or want of jurisdiction.

12-105 SPECIAL EXCEPTION PERMITS

12-105.1 **Authority** - The Board of Appeals may hear and decide, in accordance with the provisions of this resolution, requests for conditional use permits. For the purposes of administration of this resolution, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-109, Tennessee Code.

12-105.2 **Application for Special Exception Permit, Notice of Public Hearing** - Application for a special exception permit shall be made by the property owner or his designated agent and filed in writing with the Board on forms provided by the Board and shall contain information and exhibits as may be required under or in the case of buildings or other structures or uses to be located within floodplain districts, as may be required by the Flood Damage Prevention Resolution. Not more than sixty (60) days after filing such application, a hearing shall be held on the application, unless, otherwise, withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with Section 12-108.3 – Notice by Letter *(amended on May 17, 2010).*

12-105.3 **Requirements for Special Exception/Conditional Use Permit** - General requirements are hereby established which shall apply to all applications for conditional use/special exception permits, and specific standards listed shall apply to the issuance of a special exception permit as appropriate. The Board may impose such other conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to comply with the provisions set out in Appendix B-104 and B 105, in order to reduce or minimize the injurious effect of such conditional uses upon and ensure compatibility with surrounding property. The Board may establish dates for the expiration of any conditional use permit as a condition of approval.

12-105.4 **General Requirements** - A conditional use permit may be granted provided the Board finds that the request:

1. Is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected;
2. Will not adversely affect other property in the area in which it is located;
3. Conforms to all applicable provisions of this resolution established for the use within the district in which it is to be located;
4. The request is consistent with all applicable provisions of the comprehensive plan;
5. The request is compatible with the existing or allowable uses of adjacent properties;
6. The request can demonstrate adequate public facilities, including roads, drainage, potable water, sanitary sewer or approved SSDS, and other services as needed;
7. The request can demonstrate adequate provision for maintenance of the use and associated structures;
9. The request has minimized, to the degree possible, adverse effects on the natural environment; and
10. The request will not create undue traffic congestions.

12-106 AMENDMENTS TO THE ZONING PLAN (TEXT AND/OR DISTRICT BOUNDARY)

12-106.1 **General** - The County Commission may, from time to time, amend this resolution by changing the boundaries of districts or by changing any other provisions of the code whenever it is alleged that there was an error in the original zoning resolution or whenever the public necessity, convenience, and general welfare require such amendment.

12-106.2 **Initiation of Amendment** - Amendments to the Zoning Resolution text, may be initiated by the County Commission, the Sullivan County Regional Planning Commission or the Planning Director. Amendments to the Zoning District Map may be initiated by the County Commission, Sullivan County Regional Planning Commission, a property owner of the land which is to be considered for rezoning, or the legal agent representing the property owner, such as Power of Attorney, Licensed Realtor or buyer under contract of said property. Legal documentation verifying the legal interest in said real property shall be made available to the Planning & Zoning Director prior to acceptance of any rezoning application. *(Amended on January 22, 2008)*

12-106.3 Application for Amendment

1. Filing of Proposed Amendments - An application for amendment shall be filed with the Planning and Zoning Department. Prior to any consideration of the proposed amendment by the County Commission such application shall be transmitted to the applicable Regional Planning Commission(s) for review and recommendation pursuant to the Tennessee Code Annotated, Section 13-7-105.

2. Application Content - Any application for a change in the zoning classification of any parcel of land shall be accompanied by:
   a. Sufficient information to disclose ownership of the property for which the request is being made and that the requests is being made by the owner or a legal agent acting on behalf of the owner.
   b. Sufficient information to disclose the location and extent of the property for which the request is being made. This information shall, where necessary to achieve an adequate legal description, include a boundary survey of the property.
   c. Sufficient information to establish that the property for which the request is being made is free and clear of any encumbrances, which would prevent its use for the use proposed.

   On receiving such application copies shall be transmitted to the other bodies and the Planning Commission prior to any consideration of the proposed amendment by the County Commission.

12-106.4 Review and Recommendation by the Planning Commission - The Regional Planning Commission in its review and recommendation, and the County Commission in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

1. The amendment is in agreement with the general plan for the area, and
2. It has been determined that the legal purposes for which zoning exists are not contravened and
3. It has been determined that there will be no adverse effect upon adjoining property owners, unless such effect can be justified by the overwhelming public good or welfare, and
4. It has been determined that no property owner or small group of property owners will benefit materially from the change to the detriment of the general public, and
5. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan, and consequently, the zoning map, and
6. There are adequate public utilities and other infrastructure to adequately support such change in zoning classification, and
7. Such zoning classification change supports the purposes and policies of the effective countywide *PC1101 Growth Plan*.

12-106.5 Public Hearing and Notice of Hearing - A public hearing shall be held on all proposed amendments to this ordinance. Notice of such hearing shall be displayed as specified in Section 12-108.

12-106.6 Amendments Affecting Zoning Map - Upon enactment of an amendment to the zoning map which is part of this resolution, the Building Commissioner shall cause such amendment to be placed upon the zoning map noting thereon the resolution and effective date of such amendatory resolution.

12-106.7 Effect of Denial of Application - Whenever an application for an amendment to the text of this resolution or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases:

1. Upon initiation by the County Commission, or Planning Commission.
2. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made.
3. When the previous application was denied for the reason that the proposed zoning would not conform to the general plan, and the general plan has subsequently been amended in a manner, which will allow the proposed zoning text or district change.

12-107 REMEDIES AND ENFORCEMENT

12-107.1 Complaints Regarding Violations - Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis, thereof, shall be filed with the Building Commissioner. The Building Commissioner shall record properly such complaint, immediately investigate, and take action, thereon, as provided by this resolution.

12-107.2 **Penalties for Violation** - Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) shall constitute a misdemeanor and shall be punished as provided by law. Each day such violation exists shall be deemed a separate offense. Violating any provision of this ordinance shall be subjected to a civil penalty not to exceed five hundred dollars ($500) for each offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

12-107.3 **Remedies** - In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended, or proposed to be used in violation of this resolution, the Building Commissioner or other appropriate authority of the County Government or any adjacent or neighboring property owner who would be damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate the violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the Building Commissioner may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or re-establishment of service be withheld, there from, until such time as the building or other structure premises are no longer in violation of these regulations.

12-108 PUBLIC NOTICE

12-108.1 **Applicability** - All public hearings required by this ordinance shall be preceded by public notice and/or notice by letter as provided by this section.

12-108.2 **Notice by Newspaper** - Notice in a newspaper of general circulation within Sullivan County, shall be given at least fifteen (15) days, but not more than thirty (30) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification, and it shall contain information as to the purpose of the rezoning request or zoning text amendment.

12-108.3 **Notice by Letter** - Property owners abutting, touching or fronting a parcel of land for which a change in zoning classification is being requested or a variance application to the BZA, shall be notified by letter of such request. Said notification shall be mailed at least seven days prior to the date set for hearing of said application. The Office of the Building Commissioner shall be responsible for accomplishing this notification. The latest property tax rolls shall be utilized in obtaining names and addresses of persons to be notified *(amended on May 17, 2010).*

12-109 **FEES** - Standardized fee schedules may be established to partially defray the processing and administrative costs associated with each type of application associated with this resolution. All fees are to be paid at the time of filing. Fees shall be waived for the following: (1) Applications initiated by any Federal, State or municipal agency; and (2) Any re-zonings initiated by the Planning Commission and County Commissioners to implement the general plan. All building permit and zoning fees shall be required as follows:

***See Appendix L of the Building Codes for Residential Permit fees:**	
Residential Accessory Structure;	
Single Family Residential – New Construction and Additions;	
Singlewide Mobile Home	
Multi-Family Residential - Each Unit	***$50.00***
Temporary Permits (See Appendix B-106)	***$50.00***
Sign Permit (permanent and freestanding)	***$25.00***
Commercial & Industrial – Based Upon Total Construction Costs:	
$1 to $50,000	***$100.00***
$50,001 to $200,000	***$200.00***
$200,001 to $300,000	***$400.00***
$300,001 to $500,000	***$600.00***
$500,001 and up	***$1000.00***

Board of Zoning Appeals:	
Administrative Review	***$50.00***
Variance Request	***$50.00***
Special Exception/Conditional Use	***$50.00***
Rezoning Petition:	
Agricultural/Residential	***$100.00***
Commercial/Manufacturing	***$250.00***
Request for Deferral	***$40.00***
Temporary/Seasonal Fireworks (Tent Sales)	***$300.00***

Land Use Plans, Reports, Codes, Plats, Site Plans - Copies $5.00 for each to cover duplication costs

PERMIT FEE DOUBLES IF STRUCTURE BEGINS PRIOR TO ISSUANCE OF PERMIT

ZONING COMPLIANCE FEE SCHEDULE UPDATED AND APPROVED BY COUNTY COMMISSIONER ON AUGUST 18, 2003
****ONE AND TWO FAMILY RESIDENTIAL BUILDING CODES ADOPTED ON JULY 21, 2009 AND BECOME EFFECTIVE JANUARY 1, 2010***

Appendix L – Revised

Residential Accessory Structure	***$25.00***
Singlewide Mobile Home	***$75.00***
One Room Addition or Detached Garage	***(see below)***
Single Family Residential Based upon Total Cost of Construction:	
House - $1 to 25,000	***$55.00***
House - $25,001 to $50,000	***$75.00***
House - $50,001 to $100,00	***$200.00***
House - $100,001 to 150,000	***$250.00***
House - $150,001 to 200,000	***$300.00***
House - $200,001 to 250,000	***$350.00***
House - $250,001 to 300,000	***$400.00***
House - $300,001 to 350,000	***$450.00***
House – 350,001 to 400,000	***$500.00***
House - $400,001 to 450,000	***$550.00***
House – 450,001 to 500,000	***$800.00***
House – 500,001 and up	***$1,050.00***

****Demolition Permit Based upon Total Cost of Removal as per above schedule***

****All other charges and fees pursuant to Article 12-109 of the Sullivan County Zoning Resolution***

12-110 **EFFECTIVE DATE** - This resolution shall be in force upon the amended and approved effective date of January 1, 2004, the public welfare requiring it *(County Commission also amended section of code on: October 20, 2004; August 15, 2005; October 17, 2005; September 17, 2007; January 22, 2008; May 19, 2008; July 21, 2008; February 17, 2009).*

Approved and Certified by Sullivan County Regional Planning Commission

Gordon Peterson
Secretary, Planning Commission

Harry Boggs
Chairman, Sullivan Co.Planning Commission

Date

Regular meeting – March 19, 2002
7 yes, 2 members absent
Regular meeting – July 15, 2003
Recommended approval 4 yes, 3 no, 1 abstained, 1 absent – recommended 6-month grace period on map
Two separate planning work sessions were held on 2/27/03 and 4/24/03
Regular meeting – October 21, 2003 – Final Draft of Resolution presented to correspond with existing zoning map

Approved and Certified by Bristol Regional Planning Commission

Secretary, Planning Commission

Chairman, Bristol Planning Commission

Date

Special called meeting – April 22, 2002
Unanimously recommended in favor
Regular Meeting – July 21, 2003
Recommended approval 6 yes, 2 no – motioned to approved entire plan with an amendment of 1-acre minimum lot sizes for new lots on septic systems.

Approved and Certified by Kingsport Regional Planning Commission

Alan Webb
Secretary, Planning Commission

Mike McIntire
Chairman, Kingsport Planning Commission

Date

Special called meeting – March 4, 2002
5 yes, 4 members absent
Special called work session – July 11, 2003
Regular Meeting – July 17, 2003 (unanimously recommended approval)

Approved by the Sullivan County Commission

Richard S. Venable
County Mayor

Date

Workshops – February 12, 2002 at 7PM and a joint public meeting with Planning Commission on July 15. 2003

First Public Hearing:	**Monday, August 18, 2003 at 10 AM**
First Reading:	**waived, August 18, 2003 (standard Resolution #1)**
Second Public Hearing:	**Monday, October 13, 2003 at 6 PM**
Second Reading:	**Monday, October 13, 2003 – 14 yes, 6 no, 4 absent, approved**
Resolution #12:	**Monday, October 20, 2003 – Resolution to amend the effective date of new code to be January 1, 2004 – 20 yes, 1 no, 1 pass, 2 absent**

ATTEST:

County Court Clerk

Date