

OFFICIAL ZONING ORDINANCE SMITH COUNTY, TENNESSEE

Smith County Regional Planning Commission
Glenn Petross, Chairman
Mayor Michael Nesbitt, Secretary
Ed Blair
Larry Bussel
Phillip Evitts
Jerry Futrell
Don Lankford
Carson Maxwell
Billy Piper
Johnny Price
Stacy Woodard
Jackie Bellar, County Attorney

Originally adopted by Resolution, July 14, 2003,
Updated with all amendments July 9, 2018.

Prepared by
Jody W. Pritchett, Administrator
Smith County Land Use Regulations Office
122 Turner High Cir., Suite 111
Carthage, TN 37030
615.735.3418
615.735.1534 (fax)

Table of Contents

ARTICLE I: ENACTMENT	1
SECTION 1: AUTHORITY	1
SECTION 2: TITLE	1
ARTICLE II: PURPOSE	2
SECTION 1: PURPOSE	2
SECTION 2: ENACTMENT	2
SECTION 3: AGRICULTURAL USES	2
SECTION 1: SCOPE	3
SECTION 2: DEFINITIONS	3
ARTICLE IV: GENERAL PROVISIONS	12
SECTION 1: SCOPE	12
SECTION 2: ONLY ONE (1) PRINCIPAL BUILDING ON ANY LOT	12
SECTION 3: LOT MUST ABUT A PUBLIC ROAD	12
SECTION 4: REDUCTION IN LOT AREA PROHIBITED	12
SECTION 5: REAR YARD ABUTTING A PUBLIC ROAD	12
SECTION 6: CORNER LOTS	12
SECTION 7: ACCESSORY USE REGULATIONS	12
SECTION 8: BUFFER STRIPS	13
SECTION 9: SUBSURFACE MINING USES EXEMPTED	13
ARTICLE V: SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS	14
SECTION 1: TEMPORARY USE REGULATIONS	14
SECTION 2: HOME OCCUPATIONS	14
SECTION 3: GENERAL REQUIREMENTS FOR MANUFACTURED HOMES ON INDIVIDUAL LOTS	15
SECTION 4: GENERAL REQUIREMENTS FOR MANUFACTURED HOME PARKS	15
SECTION 5: BUILDING STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS	22
SECTION 6: LITTER, REFUSE, GARBAGE, AND JUNK CONTROL REGULATIONS	23
SECTION 7: MINIMUM DESIGN STANDARDS FOR TRANSMISSION AND COMMUNICATION TOWERS AND STATIONS	24
SECTION 8: DOG AND CAT KENNELS	25
SECTION 9: EXOTIC ANIMALS	27
SECTION 10: EROSION AND SEDIMENT CONTROL REGULATIONS	27
SECTION 11: GENERAL REQUIREMENTS FOR CAMPGROUNDS AND RECREATIONAL VEHICLE (RV) PARKS	32
SECTION 12: DEER/GAME PROCESSING FACILITIES	37
SECTION 13: TAXIDERMY FACILITIES	38
SECTION 14: WINERIES	39
ARTICLE VI: ZONING DISTRICTS	40
SECTION 1: ESTABLISHMENT OF DISTRICTS	40
SECTION 2: ZONING MAP	40
SECTION 3: ZONING DISTRICT BOUNDARIES	40
SECTION 4: SPECIFIC DISTRICT REGULATIONS	40
ARTICLE VII: EXCEPTIONS AND MODIFICATIONS	77
SECTION 1: SCOPE	77
SECTION 2: NONCONFORMING USES	77
SECTION 3: LOTS OF RECORD	77
SECTION 4: EXCEPTIONS TO SETBACK REQUIREMENTS	78
SECTION 5: ABSOLUTE MINIMUM LOT SIZE	78
ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT	79
SECTION 1: ADMINISTRATION OF THE RESOLUTION	79
SECTION 2: THE ENFORCEMENT OFFICER	79
SECTION 3: ZONING COMPLIANCE PERMIT (BUILDING PERMIT)	79

SECTION 4: TEMPORARY USE PERMITS	81
SECTION 5: COUNTY BOARD OF ZONING APPEALS	82
SECTION 6: VARIANCES	84
SECTION 7: PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS	86
SECTION 8: AMENDMENTS TO THE RESOLUTION	87
SECTION 9: APPLICATION FOR REZONING	88
SECTION 10: PENALTIES	88
SECTION 11: REMEDIES	88
SECTION 12: VALIDITY	88
SECTION 13: INTERPRETATION	89
SECTION 14: EFFECTIVE DATE.....	89

ARTICLE I: ENACTMENT

SECTION 1: AUTHORITY

A resolution, in pursuance of the authority granted by Sections 13-7-115 and 13-7-401, Tennessee Code, to regulate, in the portions of Smith County, Tennessee, which lie outside of the municipal corporations of the county, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces the density and distribution of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, agricultural, forestry, soil and water conservation, public activities and other purpose including areas subject to flooding; to provide for the orderly and reasonable uses of solar energy in the interest of public health, safety and general welfare; to provide methods of administration of this resolution, and to prescribe for the violation thereof.

SECTION 2: TITLE

This resolution shall be known as The Zoning Resolution of Smith County, Tennessee, dated July 14, 2003. The zoning map shall be referred to as the Official Zoning Map of Smith County, Tennessee, and all explanatory matter thereon is hereby adopted and made part of this resolution.

ARTICLE II: PURPOSE

SECTION 1: PURPOSE

The purpose of this resolution is to promote the public health, safety, morals, convenience, order, prosperity, and general welfare by enhancing the character and stability of agricultural, timber, residential, recreational, commercial, and industrial areas, and promoting the orderly and beneficial building of such areas; preventing overcrowding of land; conserving the value of land and buildings; minimizing traffic hazards and congestion; preventing undue concentration of population; providing for adequate light, air, privacy, and sanitation; reducing hazards from fire, flood, and other dangers; assisting in the economic provision, utilization, and expansion of all services provided by the public, including but not limited to roads, water, and sewer service, recreation, schools, and emergency services; encouraging the most appropriate uses of land; enhancing the natural, man-made, and historical amenities of Smith County, Tennessee.

SECTION 2: ENACTMENT

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

SECTION 3: AGRICULTURAL USES

This resolution shall not be construed as authorizing the requirement of building permits nor providing for any regulation of the erection, construction, or reconstruction of any agricultural building or other non-residential structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural purposes. Nor shall this resolution be construed as limiting or affecting in any way or controlling the agricultural uses of land, except in regard to feedlots, dairy farms, and egg production houses with an established date of operation subsequent to the effective date this resolution noted herein, as provided in Section 44-18-101 through 44-18-104 of the Tennessee Code.

ARTICLE III: DEFINITIONS

SECTION 1: SCOPE

For the purpose of this resolution and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as follows:

- a. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- b. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
- c. The word “shall” is mandatory.
- d. The word “may” is permissive.
- e. The words “used” or “occupied” includes the words “intended”, “designed”, or “arranged to be used” or “occupied”.
- f. The word “lot” includes the words “plot”, “tract”, or “parcel”.

SECTION 2: DEFINITIONS

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this Zoning Resolution. Terms not herein defined shall have their standard dictionary definition or such as the context may imply.

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

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

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

Adequate Fire Protection Lots served by a standard fire hydrant within five hundred (500) feet of said lot and installed on a six (6) inch waterline that provides a minimum fire flow of five hundred (500) gallons per minute and twenty (20) psi residual pressure.

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

Advertising Sign or Structure See Sign.

Agriculture Use The use of a tract of land which includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, viticulture, floriculture, forests, and goods, provided that all appropriate laws and regulations are complied with.

The feeding or disposal of community or collected garbage to animals shall not be deemed an agricultural use nor shall dog and cat kennels be so considered.

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

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

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

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

Attached An enclosure having continuing walls, roof, and floor.

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

Automobile Wrecking, Junk and Salvage Yards Any lot or place which is exposed to weather and upon which more than three (3) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative are placed, located, or found.

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

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

Board The Smith County, Tennessee, Board of Zoning Appeals.

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

Building Any structure having a roof supported by columns or by walls, including dining cars, mobile homes, or trailers, and similar structures whether stationary or movable.

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

Building Inspector The zoning compliance official or his authorized representative appointed by the Smith County Commission.

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

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

Building Setback Line, Front A line delineating the minimum allowable distance between the street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the front of a building on a lot. The front building setback line extends the full width of the lot and is parallel to the street right-of-way.

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

Building Setback Line, Side A line delineating the minimum distance between the side property line and a building on a lot. The side setback line extends from the front building setback line to the rear building setback line.

Bulk Describes the size of buildings or other structures, and their relationship to each other and to open areas and lot lines.

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

Clinic See Medical Facility.

Conditional Use (Special Exception) A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as conditional uses, only when specific provisions for such use is made in this resolution. For the purposes of administration of this resolution, conditional used shall be construed as synonymous with special exceptions, as controlled by SECTION13-7-107, Tennessee Code.

Convenience Sales The retail sale of small convenience items such as toiletries, tobacco, and magazines. The dispensing of petroleum products may be included as accessory to convenience food products retailing.

Convenience Services Services which are typically needed frequently or recurrently, such as, barber and beauty care; and includes the operation of self- service laundromats, but excludes other apparel, cleaning and repair services.

Coverage The percentage of a lot which is covered by all buildings located therein, including the area covered by all overhanging roofs.

Country Club A chartered, nonprofit membership club, with facilities catering primarily to its membership or social amenities; golf, riding, clubhouse, pool, dining facilities, lounge.

Day Care Center Any place, home, or institution, that is licensed by the State of Tennessee Department of Human Services where care, protection, and supervision are provided, on a regular schedule to thirteen (13) or more unrelated young children.

Day Care Home A private residence, that is licensed by the State of Tennessee Department of Human Services where care, protection, and supervision are provided, on a regular schedule to no more than twelve (12) or more unrelated young children.

District Any section, or sections of the area lying within Smith County, Tennessee, for which the resolution governing the use, density, bulk, height, and coverage of buildings and other structures are in force.

Dwelling A building or part thereof used as a habitation under one of the following categories:

Single detached dwelling means a building and accessories thereto principally uses, designed, or adapted for use by a single household.

Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) households, the living quarters of each of which are completely separate.

Apartment dwelling means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more households each of which has separate living quarters.

Rooming house or boarding house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants.

Multi-family means an occupancy by three (3) or more households each of which has separate living quarters.

Manufactured Home (as found in Tennessee Code Annotated Section 68-126-202) - means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure; except that "manufactured home" includes any structure that meets all the requirements of this subdivision (2), except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this title. (Amended May 2013)

Mobile Home (as found in Tennessee Code Annotated Section 68-126-202) - means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, compiled in 42 U.S.C. § 5401 et seq. It is a structure that is transportable in one (1) or more sections that in the traveling mode is eight (8) body-feet or more in width and forty (40) body-feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet and that is built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes any plumbing, heating, air conditioning and electrical systems contained. (Amended May 2013)

Family One or more persons occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or similar dwelling for group use.

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

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

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

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

Health Department The Smith County Health Department.

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

Home Occupation Is a limited activity conducted on premises that in no way alters the residential character of the neighborhood and the increase in the amount of neighborhood traffic is limited.

Hospital See Medical Facilities.

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

Light Industry Is defined, for the purpose of the resolution, on the basis of performance in terms of absence of objectionable noise, smoke, odor, dust, dirt, noxious gases, glare, and heat; and of the creation of hazards to health and life by reason of fire, effects of industrial waste, psychological effects, and generation of motor vehicle traffic.

Loading Spaces An area ten feet by forty feet (10' x 40') with a fourteen (14) foot height clearance providing for the standing, loading, or unloading of a truck or other vehicle. All spaces are designed so as to not require trucks and other vehicles to back onto public streets.

Lot A piece, plot, or parcel of land in one ownership, which may include one or more lots or record, occupied or to be occupied by one or more principal buildings.

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

Lot, Corner A lot of which at least two (2) adjoining sides abut their full lengths on a street.

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

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

Lot, Interior A lot other than a corner lot.

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

Lot of Record A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the effective date of this zoning resolution.

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

Marina A facility for the docking and servicing of boats.

Medical Facilities

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

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

Hospital An institution providing health services primarily for human inpatient medical care for sick or injured and including related facilities such as laboratories, out-patient

facilities, emergency medical services, and staff offices which are an integral part of the facility.

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

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

Mobile Home Park Any area, tract, site, or plot of land whereupon mobile homes as herein defined are placed, located, or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

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

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

Open Space An area on the same lot with main buildings which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in this resolution.

Owner Includes his duly authorized agent or attorney, a purchaser, devise, fiduciary, and a person having a vested or contingent interest in the property in question.

Parking Lot An off-street facility including parking spaces with adequate provisions for drives and aisles for maneuvering and obtaining access and for entrance and exit.

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

Planned Development A single planned area of land which: (1) has both individual building sites and common property such as a park; and (2) is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property; the ownership of the common property may be either public or private.

Planning Commission The Smith County Regional Planning Commission.

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

Principal Structure A structure in which is conducted the principal use of the lot on which it is situated. In any residential or agricultural district, any dwelling shall be deemed the principal structure on the lot on which the same is situated. Carports and garages if permanently attached to the principal structure shall be deemed a part of the principal structure. Awnings, porches, patios, or similar attachments shall be deemed a part of the principal structure with the meeting of any yard requirement.

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

Private Wastewater Treatment Individual subsurface sewage disposal systems (i.e., septic tanks), package treatment plans or individual aeration systems employed for the collection and treatment and/or disposal of wastewater, as approved by the county health department and the Tennessee Department of Health and Environment.

Professional Office The office of a physician, dentist, attorney, architect, engineer, planner, accountant, or similar profession.

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

Public Wastewater System A municipal, community, or utility district sewerage treatment and disposal system of a type approved by the Tennessee Department of Health and Environment and the Tennessee Public Service Commission.

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

Roadway The actual road surface including necessary road shoulders and drainage facilities including ditches and curbs and gutters, which is used to transport motor vehicles.

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

Self-Service Storage Facility A structure containing separate storage spaces of varying sizes leased or rented as individual leases. Also, referred to as Mini-Warehouses.

Shopping Center A group or compatible commercial establishments, planned, developed, and managed as single unit, with an automobile storage area provided on the property; the center must also be related in location, size, and type of businesses to its trade area.

Sign, Billboard, or Other Advertising Device Any structure or part thereof or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag pennant, insignia, or any representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit.

Business Sign A sign which directs attention to the business or profession conducted on the premises.

Advertising Sign A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises at all.

Billboard A type of advertising sign having more than one hundred (100) square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.

Flashing Sign Any illuminated sign, whether stationary, revolving, or rotating, which exhibits changing light or color effects provided that revolving or rotating signs which exhibit no changing light or color effects other than those produced by revolution or rotation, shall be deemed flashing signs only if they exhibit sudden or marked changes in such light or color effects.

Ground Sign A sign supported by a pole, uprights, or braces on the ground.

Illuminated Sign A sign designed to give forth any artificial light or reflect such light from an artificial source.

Indirect Illumination Sign Any illuminated non-flashing sign whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into residence or streets.

Off-Premises Sign A sign relating to a product, service, or establishment that is not on the premises on which the sign is located.

On-Premises Sign A sign relating to a product, service or establishment that is on the premises on which the sign is located.

Pole Sign or Banjo Sign A type of ground sign at least ten (10) feet above the ground supported on a single post or pole most commonly associated with gasoline service stations.

Wall of Flat Sign Any sign erected parallel to the face or on the outside wall of any building which projects out at any angle therefrom and projects more than twelve (12) inches beyond the face of such wall.

Roof Sign A detached sign supported upon the roof or wall of a building.

Marquee Sign A projecting sign attached to or hung from a marquee and said marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building, building line, or property line.

Temporary Sign Temporary sign shall include any sign, banner, pennant, valence, of advertising display constructed of wood, metal, cloth, canvas, light fabric, cardboard, wallboard, or other light material with or without frames, where either by reason of construction or purpose the sign is intended to be displayed for a short period of time.

Special Exception A use which is specifically permitted if the owner can demonstrate to the satisfaction of the Board that it will meet certain standards, enumerated safeguards, or qualifying conditions.

Story That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of the floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story". A basement shall be considered as a story if more than half of its height is above the average ground level from which the "height of the building" is measured or if it is used for commercial purposes.

Street A public road, highway, or thoroughfare which constitutes, or is designed to constitute, the main access to more than one (1) lot and which has been legally dedicated and accepted for public use.

Subdivision The division of a tract or parcel of land into two (2) or more parts or parcels.

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

Travel Trailer A vehicular, portable structure designed as a temporary dwelling for travel, recreation, and vacation uses.

Travel Trailer Park A plot of land designed and equipped to accommodate travel trailers for short periods of time.

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

Yard An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this resolution, provided that accessory buildings may be located in a rear yard.

Yard, Front The yard extending across the entire width of the lot between the nearest part of the principal building, including porches, and the front lot line.

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

ARTICLE IV: GENERAL PROVISIONS

SECTION 1: SCOPE

For the purpose of the zoning resolution, the following general provisions which shall apply, except as specifically noted, to the county as a whole.

SECTION 2: ONLY ONE (1) PRINCIPAL BUILDING ON ANY LOT

Only one (1) principal building and its accessory structures may hereafter be erected on any zone lot. This provision shall not apply to planned unit buildings, group housing buildings, and manufactured home parks as permitted in this resolution.

SECTION 3: LOT MUST ABUT A PUBLIC ROAD

No building shall be erected on a lot which does not abut at least one (1) publicly maintained road for at least fifty (50) feet. This section shall not apply to residential properties in a residential or agricultural district abutting a cul-de-sac, which shall be at least thirty (30) feet.

SECTION 4: REDUCTION IN LOT AREA PROHIBITED

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

No part of any yard or other open space or automobile storage area of loading or unloading space provided about any building for the purpose of complying with these regulations shall be considered as providing such space similarly required for any other structure.

SECTION 5: REAR YARD ABUTTING A PUBLIC ROAD

When the rear yard of a lot abuts a public road, all structures built in that rear yard shall observe the same setback as required for adjacent properties which front on the road. In addition, any structure located with twenty-five (25) feet of that setback line shall be closer to any side property line than the distance required for side yards on adjoining properties fronting on that road.

SECTION 6: CORNER LOTS

The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the road that the side yard of the corner lot faces.

SECTION 7: ACCESSORY USE REGULATIONS

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

- a. Be customarily incidental to the principal use established on the same lot.
- b. Be subordinate to and serve such principal use.
- c. Be subordinate in area, intent, and purpose to such principal use.
- d. Contribute to the comfort, convenience, or necessity of users of such principal use.

SECTION 8: BUFFER STRIPS

Where a use is established in areas zoned commercial or industrial which abuts at any point upon property zoned residential or agricultural, the developer of said use shall provide a landscaped buffer strip at the point of abutment. Buffers are required between industrial and commercial districts, any lot containing multi-family dwellings, a mobile home park, junk or salvage yard, self-service storage facility, private campground, or planned unit developments. The buffer strip shall be no less than twenty five (25) feet in width.

SECTION 9: SUBSURFACE MINING USES EXEMPTED

All mining operations shall be in conformance with 59-1-117 Tennessee Code and all other applicable state and federal regulations for such type of use. Specific requirements of this zoning resolution shall not apply to any subsurface mining structures or accessory uses or facilities thereof that are not exclusive to any particular zoning district.

ARTICLE V: SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

SECTION 1: TEMPORARY USE REGULATIONS

The following regulations are necessary to govern the operation of certain necessary or seasonal uses nonpermanent in nature. Application for a Temporary Use Permit shall be made to the Board of Zoning Appeals through the office of the Land Use Regulations Administrator. Said application shall contain a graphic description of the property to be utilized a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking spaces for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located.

- a. Carnivals of Circuses: May obtain a Temporary Use Permit in the Agricultural of Commercial districts; however, such permit shall be issued for a period of not longer than fifteen (15) days but may be renewed for fifteen (15) days with reason. Such use shall be permitted on lots where adequate off-street parking can be provided.
- b. Temporary Dwelling Unit in Cases of Special Hardship: In any residential or agricultural district a Temporary Permit may be issued to place a mobile or manufactured home temporarily on a lot in which the principal structure was destroyed be fire, explosion, or natural phenomenal. The purpose of such placement temporarily shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Smith County Health Department and/or the Utilities System approving the water supply and sewage disposal systems of the temporary. (Amended May 2013)

SECTION 2: HOME OCCUPATIONS

A home occupation or profession conducted entirely within the principal dwelling unit or approved accessory building by members of the household residing on the premises.

Due to the small scale of operation, home occupations are not required to obtain special exception from the Board of Zoning Appeals. No home occupations shall allow the parking on any county or state right of way. The owner of a home occupation shall have enough parking for all its customers at all times. Home occupations shall not operate during a time period, which would affect the residents of the community. A home occupation shall not cause an increase in noise, dust and health hazards.

If the Land Use Regulations Office determines that a violation of these regulations exists, the inspector shall provide notice to the owner of record of the property upon which the conditions creating the violation are located.

The property owner may request a hearing to the Board as permitted in this section. Such hearing shall be held at the next meeting of the Board of Appeals after the request is made unless a later date is agreed to by the owner. Failure to make the demand for a hearing within the time limit specified shall constitute a waiver of the right to a hearing. Following a hearing, the Board may modify, dismiss, or confirm the notice. Any person aggrieved by an order or act of the board, agency or commission under the provisions of this subsection may seek judicial review of the order or act. The decision of the court may be appealed

according to the Tennessee Rules of Appellate Procedure. During these reviews, the time period established above shall be stayed during the pending of a hearing.

Due to the nature and character of their operations, Automobile Wrecking, Junk, Salvage, Yards, Dog and Cat Kennels, and Adult-Oriented establishments shall not be considered Home Occupations.

SECTION 3: GENERAL REQUIREMENTS FOR MANUFACTURED HOMES ON INDIVIDUAL LOTS (Amended May 2013)

For the purpose of this section, a manufactured home includes both manufactured homes and mobile homes as defined above and Tennessee Code Annotated Section 68-126-202.

- A. A building permit shall be obtained for all classes of manufactured homes before they are moved on site. If a manufactured home is moved on site before a building permit is obtained, a letter will be sent notifying the property owner of the violation. The letter will give a ten (10) day's notice for any necessary corrective actions by the owner, at which time a fine of fifty (\$50.00) per day will be imposed until the violation(s) have been rectified.
- B. All manufactured homes shall be used as a residence, anchored and stabilized in accordance with regulations of the State of Tennessee (Tennessee Manufactured Home Anchoring Act). All manufactured homes require skirting, which shall be of material suitable for exterior exposure and contact with the ground. Skirting shall be installed in accordance with the skirting manufacturer's installation instructions and consist of a durable material that includes, but is not limited to vinyl or masonry. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave.
- C. All double unit chassis mobile homes shall have a permanent masonry foundation and shall meet all yard requirements for the applicable zoning district in which it is located.
- D. All repairs must be completed within six (6) months of the date the home is permitted. If repairs are not completed, all permits issued by the Land Use Regulations Administrator will become void.
- E. All manufactured homes must meet all applicable federal, state, and Local regulations within six (6) months of the date of issuance of the building permit. If all regulations are not met during the specified time period, all permits issued by Land Use Regulations Administrator will become void

SECTION 4: GENERAL REQUIREMENTS FOR MANUFACTURED HOME PARKS (Amended May 2013)

For the purpose of this section, a manufactured home includes both manufactured homes and mobile homes as defined in Article III and Tennessee Code Annotated Section 68-126-202.

The following regulations are intended to supplement the state health and safety regulations established by the Uniform Standards Code for Manufactured Homes and Recreational Vehicles Act, Section 68-126-101 through 68-126-214, Tennessee Code and the Tennessee Manufactured Home Anchoring Act, Section 68-126-401 through 68-126-412 Tennessee Code by ensuring a minimum standard of site building for manufactured home parks where permitted within a zoning district.

- A. Manufactured Home Park Building Permit
 - 1. The application for a "manufactured home park permit" shall be filed with and issued by the Smith County Land Use Regulations Office. However, construction or extension of a manufactured home park may

not commence within the area of jurisdiction of this resolution until approval of the site plan by the Smith County Regional Planning Commission. The Commission shall act upon an application for a permit after a report from the Land Use Regulations Administrator. The Commission may attach whatever conditions it sees fit to the permit in order to protect the neighborhood or adjoining properties and ensure constancy with the purpose of the applicable district.

2. Site Plan Required

A manufactured home park building permit may only be issued for construction or extension of a manufactured home park upon submission and approval by both the Smith County Regional Planning Commission and the Land Use Regulations Administrator of a site building plan containing the following information. The owner, lessee, or an authorized representative shall submit the site plan for review. The site plan shall contain the following elements:

- a. The name and address of the applicant.
- b. The park plan drawn to scale that includes the location, area, and dimensions of the proposed manufactured home park site as well as a legal description.
- c. The location, size, and number of all manufactured home spaces.
- d. The location and size of all buildings, improvements, and facilities.
- e. The location and dimensions of all water lines and sewer treatment facilities.
- f. The proposed use of buildings shown on the site plan.
- g. The location, width, and size of all driveways, walkways, and internal streets to include the overall Internal circulation plan (roadways and pedestrian walkways).
- h. The location and number of all off-street parking facilities.
- i. The location of park and recreation areas.
- j. A complete drainage plan with contour lines at five (5) feet.
- k. A location map showing the park site in relation to the existing public street pattern and indication of uses of property adjacent to the site and the location of all buildings within two hundred (200) feet of the site.
- l. A time schedule for building shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.
- m. Certificate of ownership and dedication, certificate of accuracy from the surveyor or engineer, certificate for approval of subsurface sewer disposal systems from the county environmentalist and/or certificate of approval for sewer collection system from the applicable utility district, certificate of approval for waterlines from the applicable utility district, certificate of approval for waterlines from the applicable utility district, certificate of entrance and exit approval by the County Road Superintendent, certificate of approval of electric service

from the applicable power system, and a certificate of approval from the secretary of the planning commission.

- n. Such other architectural, engineering, and topographical data as may be required to permit the Smith County health department, the applicable utility district, the Land Use Regulations Administrator, and the Smith County Regional Planning Commission, to determine if the provision of these regulations are being complied with shall be submitted with the site plan.

3. Inspection Fee

An initial filing fee of fifty (\$50.00) dollars shall be required for a manufactured home park which shall be made upon submission of a site plan for approval and before final approval is granted for the site plan. If new road of utility construction is required, the planning commission shall review a preliminary and a final site plan. After completion of all construction, a final inspection shall be made at no additional charge.

- a. The filing fee shall be paid to the Land Use Regulations Administrator prior to the “actual construction” of any work on the manufactured home park.

B. Building Standards

1. General

- a. A manufactured home park shall be located only as a Permitted use within those districts where permitted on a well-drained and flood free site with proper drainage.
The Smith County Flood Insurance Rate Map (FIRM) dated 9/14/85 or subsequent updates to said maps shall be used to determine floodable areas.
- b. No part of the park shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home stand and connected to the pertinent utilities.
- c. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors, or other adverse influences, and no portion subject to flooding or erosion and shall be used for any purpose which would expose persons of property to hazards.

2. Minimum Building Size

No manufactured home park shall be approved which contains less than two (2) acres in area.

3. Dimensional Requirements for Parks

- a. Along the entire periphery of the manufactured home park, yards and setbacks meeting the district regulations shall be provided. No accessory building shall be located closer than five (5) feet from an adjacent manufactured home lot.
- b. No building or structure erected or stationed in a manufactured home park shall have a height greater than two (2) storied or thirty (30) feet.

- c. Each Manufactured home park shall be permitted to display, on each street frontage, one (1) identifying sign. Said sign(s) shall contain thereon only the name and address of the park and may be lighted by indirect lighting only.
4. Spacing of Manufactured Homes and Site Coverage
- a. Manufactured homes shall be so harbored on each space that there shall be at least a thirty (30) foot clearance in all directions between manufactured homes and any attached or unattached structure of another manufactured home.
 - b. There shall be a minimum distance of thirty (30) feet between the nearest edge of any manufactured home and an abutting access street, a minimum of fifteen (15) from the inner edge of any buffer line or if no buffer is applicable the property line, and a minimum of thirty (30) feet from any drainage channel or designated 100- year floodplain area.
 - c. The manufactured home park shall not contain more than four (4) individual manufactured home spaces per gross acre.
5. The Manufactured Home Lot
- a. General: The limits of each manufactured home lot shall be marked on the ground by suitable means. Location of lots limits on the ground shall be the same as shown on accepted plans. No lot shall be smaller than five thousands (5,000) square feet.
 - b. Manufactured Home Stands: The manufactured home stands shall be improved to provide adequate support for the placement and tie-down of the manufactured home. The stand shall not have, shift or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure.
In addition, such stand shall comply with the publication of FHA “Minimum Property Standards for Manufactured Home Parks”, May 1977 or any subsequent revision.
6. Utilities and Other Services
- a. An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home building on lines not less than six (6) inches.
 - b. Each manufactured home site shall be provided with the connection to the sanitary line or to a sewer system approved by the Smith County Environmentalist and there shall be no more than one (1) manufactured homes per septic tank and drainage field.
 - c. Solid waste collection stands shall be provided for waste containers for each manufactured home. Any central waste container shall be screened from view with access appropriately provided.
 - d. Service buildings housing sanitation and laundry facilities shall be permanent structures complying with all applicable ordinances and statues, regulations, buildings, electrical installations, and plumbing and sanitation systems.
 - e. Each manufactured home park shall be equipped with fire hydrants spaced no more than five hundred (500) feet from a

manufactured home lot with a valve in the lateral between the street main and fire hydrant. The water system shall be capable of providing “adequate fire protection”.

- f. Each manufactured home shall be served by a separate water meter with all lateral connections and meter boxes installed at the same time as water distribution lines.
- g. Each manufactured home park shall be maintained free of litter and accumulation of any kind of debris which may provide rodent harborage or breeding places for flies, mosquitoes, or other pests.

7. Internal Streets and Lighting

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. All proposed manufactured home park entrances and exits that abut a public road shall be approved by the County Road

Superintendent prior to final approval and be a minimum of five hundred (500) feet apart at the intersection with a local road or collector road. Greater spacing of the entrance and exits may be required for intersections with arterial roads.

Safe and convenient vehicular access shall be provided from abutting public streets to each manufactured home lot. Such access shall be provided by streets or driveways. All internal streets shall be private and maintained by the owner or lessee.

a. Circulation

The internal street systems should provide convenient circulation of vehicular traffic and be located and designed as prescribed by the Smith County Regional Planning Commission. Dead-end streets shall be limited in length to one thousand (1,000) feet and their closed end shall be provided with an adequate turn-around with an outside roadway pavement diameter of eighty (80) feet. An adequate drainage system including necessary open ditches, pipes, culverts, drains, or other drainage facilities shall be provided for the proper drainage of all surface water.

b. Pavement Widths

Minimum pavement (road surface) widths for internal roadways shall be at least eighteen (18) feet wide.

c. Street Construction

The internal streets and drives shall be paved with hard surface material which shall be no less than double bituminous (tar/chip) surface with a compacted six (6) inch depth base.

d. Internal Street Lights

The park shall be adequately lit at night with a minimum of 1 street light for every two (2) manufactured homes.

8. Walks

All manufactured home buildings shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided. The surface of all walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four.

9. Common Areas

An adequate common area with optional recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. The common area shall contain a minimum of twenty percent (20%) of the gross site area of the manufactured home park. Attractive outdoor sitting areas with benches shall be provided, appropriate in size, type and number to the needs of the residents. When applicable, well-equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

10. Buffer and Screening

A landscape buffer shall be provided along the perimeter of the Site boundaries not less than fifteen (15) feet in width, except that a minimum buffer area from any public street shall be no less than twenty (20) feet.

Within the landscaped buffer, a continuous fence six (6) to eight (8) feet high or landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

11. Site Design

The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. The planting plan shall be submitted with the site building plan.

12. Parking
 - a. Off-Street Parking

Paved off-street parking may be grouped in bays, either Adjacent to streets or in the interior of blocks or on the manufactured home lot. Such parking areas shall generally be located in close proximity to the dwellings units they are designed to serve. At least two (2) parking spaces per dwelling unit shall be located so

as to provide a maximum walking distance of fifty (50) feet from the nearest entrance of the dwelling unit the space is to serve.

C. Responsibility of Park Management

1. The owner of lessee shall maintain a register containing the following information:
 - a. The name and address of each manufactured home occupant.
 - b. The make, model, year, and license number of each Manufactured home and motor vehicle.
 - c. The date of arrival and of departure of each manufactured home.
2. The manufactured home park shall keep the register record available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

D. Responsibilities of Park Occupants

1. The park occupant shall store and dispose of all rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent proof, insect proof and watertight.
2. All park occupants shall be required to have their pets (dogs and cats) kept within a fenced area and shall not be allowed to roam free and unleashed.
3. No inoperative automobiles, junk, or non-contained trash shall be allowed within the park.

E. Inspections

1. The Land Use Regulations Administrator is hereby authorized and directed to make annual inspections to determine the conditions of manufactured home parks, in order to insure the health and safety of occupants of manufactured home parks and of the general public.
2. The Land Use Regulations Administrator shall have the power to enter upon any private and public property for the purpose of inspecting and investigating conditions relating to the annual inspection as it is related to the enforcement of this section. The Land Use Regulations Administrator does not have the power to enter any private structure for the enforcement of this section.
3. Penalties
 - a. Any person violating any provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense.
 - b. Each day that a violation is permitted to exist shall constitute a separate offense.
 - c. Any expansion of an existing manufactured home park shall require the approval of the Smith County Regional Planning Commission and Land Use Regulations Administrator. Expansion shall include, but is not limited to, the placement of more pads and/or utilities after the date of adoption of this zoning resolution.

F. Revocation of Permit

The Board may revoke any permit to maintain and operate a park when the owner or lessee has been found guilty by a court of competent jurisdiction of violation any provisions of this section. After such conviction, the permit may be reissued if the circumstances leading to conviction have been remedied and the park is being operated and maintained in full compliance with this section.

G. Prohibited Structures

1. Cabanas, travel trailers, and other similarly enclosed structures are prohibited.
2. Trailers with or without toilet facilities that cannot be connected to approved sewer systems shall not be permitted in a manufactured home park.
3. Manufactured homes shall not be used for commercial, industrial or other non-residential uses within a manufactured home park, except that one (1) manufactured home park may be used to house a rental office.

SECTION 5: BUILDING STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS

A site building plan shall be submitted for review on all proposals subject to this provision. The approval of said plan along with any accompanying conditions associated with a particular building is precedent to any approval under this section. The Smith County Regional Planning Commission is the agency responsible for this review.

Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics:

- A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared or propagated.
- B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than one thousand (1,000) feet from any established residential zone.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.
- E. No automobile wrecking, junk, or salvage yard shall be permitted within five hundred (500) feet of any public road in Smith County, except where a more stringent state or Federal law applies.

SECTION 6: LITTER, REFUSE, GARBAGE, AND JUNK CONTROL REGULATIONS

- A. The following requirements shall apply to all zoning districts for the purpose of controlling the storage, placement, collection of junk, garbage, litter, refuse, rubbish, or discarded material. These regulations are promulgated under authority of Tennessee Code, Section 5-1-115.
1. No owner, occupant, or resident of any real property (land and/or building) shall permit or allow garbage, litter, rubbish, refuse or any combination of the preceding elements to accumulate upon or in such real property, or a vacant dilapidated building or structure so as to endanger the health, safety or welfare of other citizens.
 2. The owner, occupant, or resident of real property, where refuse accumulates or has accumulated in violation of these regulations, shall take appropriate measures to gather up or otherwise collect and remove the refuse.
 3. Removal of the refuse in accordance with these regulations shall include the transfer of the refuse to an appropriate and lawful landfill or dumpsite, whether public or private.
 4. If the Land Use Regulations Office determines that a violation of these regulations exists, the Inspector shall provide notice to the owner or record of the property upon which the conditions creating the violation is located to remedy the condition immediately within ten (10) days. The notice shall be by personal service on the owner or by mailing by United States mail (certified, return receipt requested) to the owner of record at the last known address. If the whereabouts of such person(s) is unknown and the same cannot be ascertained by the Building Commissioner in the exercise of reasonable diligence, the Building Commissioner shall serve notice by publishing the same in a newspaper of general circulation in the county once each week for three consecutive weeks. The above notices whether by mail or published in a newspaper, shall contain, but not be limited to, the following items:
 - a. A brief statement identifying these regulations.
 - b. The person, office, address, and telephone number of the department or person giving notice.
 - c. The cost estimate for remedying the noted conditions, which shall be in conformity with standards of cost in the county.
 - d. A brief statement informing the recipient of the notice that an appeal to the Smith County Board of Zoning Appeals may be requested, said request to be received by the Land Use Regulations Office in writing within ten (10) days of receipt of the notice to the owner or date of last publication of said notice.
 - e. The place where the recipient of the notice can return a copy of the notice indicating a request for a hearing.
 - f. A brief description of the property including the property's location utilizing street address, if available, street name, and tax map and parcel numerical designations.
- B. Failure to Comply
1. If a person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in

conformity with reasonable standards and the cost thereof assessed against the owner of the property. The cost shall be a lien upon the property in favor of the county. These costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes are collected, when the county causes a notice thereof to be filed in the office of the Register of Deeds of the county in which the property lies, second only to liens of the state, county and municipality for taxes, any lien of the county for special assessments and any valid lien, right or interest in such property duly recorded prior to the filing of such notice. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.

2. If the person who is the owner of record is carrier engaged in the transportation of property or is a utility transmitting communications electricity, gas, liquids, steam, sewerage, or other minerals, the ten (10) days period above shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

C. Appeals

The property owner may request a hearing to the Board as permitted in this section. Such hearing shall be held at the next meeting of the Board of Zoning Appeals after the request is made unless a later date is agreed to by the owner. Failure to make the demand for a hearing within the time limit specified shall constitute a waiver of the right to a hearing. Following the hearing, the Board may modify, dismiss, or confirm the notice. Any person aggrieved by an order or act of the board, agency or commission under the provisions of this subsection may seek judicial review of the order or act. The decision of the court may be appealed according to the Tennessee Rules of Appellate Procedure. During these reviews, the time period established above shall be stayed during the pending of a hearing.

D. Other Procedures

Any proceeding, other than those listed herein, also shall conform to the provisions of Tennessee Code, Section 39-14-504.

SECTION 7: MINIMUM DESIGN STANDARDS FOR TRANSMISSION AND COMMUNICATION TOWERS AND STATIONS

Standards for Telephone, Telegraph, and Communications Transmitter Stations and Towers; all transmitter stations, including towers and operating equipment shall adhere to the following standards:

- A. All towers with a height of one hundred fifty (150) feet (from the base to top) or more shall be constructed in accordance with Electronic Industries Association ("EIA") Standard 222E-1991, utilizing a wind rating of eighty (80) miles per hour plus ice loading for Smith County, Tennessee. In addition, each application for a building permit shall be accompanied by an engineering report prepared by a professional engineer licensed in the State of Tennessee and competent in such design.
- B. The engineering report shall describe the height, design, and capacity of the tower. A site plan in compliance shall be approved by the Planning Commission and/or the Board of Zoning Appeals prior to the issuance of a building permit containing the following:
 - (a) The actual shape, location, and dimensions of the lot to be built upon.
 - (b) The name and address of the owner(s) of record.

- (c) Present zoning classification of the lot to be built upon.
 - (d) All tower setback lines from existing property lines.
 - (e) The location of existing or proposed access roads and easements.
 - (f) The shape, size, and location of all structures and other permanent supporting equipment or structures contained on the lot to be built upon.
 - (g) Present tax map and parcel designation according to official record in the office of the Smith County Property Assessor.
 - (h) The location of the perimeter fence or any applicable screening requirements.
- C. All towers shall be set back from all property lines by a distance that is equal to:
- 1. for a guyed tower, fifty (50) percent of the height, and
 - 2. for a self-supporting tower, the height of the tower plus twenty-five (25) feet.
- D. All applications for permits to build towers in Smith County must be accompanied with a “Determination of No Hazard” from the Federal Aviation Administration, as well as all required Federal Communications Commission Permit information.
- E. The entire tract containing the tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.
- F. Where the tower site abuts or is contiguous to any residential district, there shall be provided a continuous, solid screening, and it shall be of such plant material as will provide a year-round evergreen screening. Screening, as required herein, shall not be less than four (4) feet in height at the time of planting, and shall be permanently maintained.
- G. All towers that require marking or lighting shall be done in compliance with Federal Aviation Administration regulations, but no tower shall be lighted from dusk to dawn by any form of white flashing light unless required by the Federal Aviation Administration.

SECTION 8: DOG AND CAT KENNELS

Definitions:

Cat – means any live cat of the species *Felis catus*.

Dog – means any live dog of the species *Canis familiaris*.

Kennel – means an licensed establishment in which six (6) dogs and/or cats, more than one year old, are sold, transported, delivered for transportation, boards dogs and/or cats for profit or boards dogs and/or cats for research purposes, groomed and trained in any one (1) calendar year; this does not include veterinarian uses.

Person – means any individual, firm, corporation, partnership, association, or other legal entity.

Research facility – means any school, hospital, laboratory, institution, organization or person that uses or intends to use dogs and/or cats in research, tests, or experiments and that purchases or transports dogs and/or cats in commerce.

- A. A site building plan shall be submitted for review on all proposals subject to this provision. The approval of said plan along with any accompanying conditions associated with a particulate building is precedent to any approval under this section. The Smith County Regional Planning Commission is the agency responsible for this review. The Planning Commission shall approve a site plan in compliance and/or the Board of Zoning Appeals prior to the issuance of building permits containing the following:
 - 1. The actual shape, location, and dimensions of the lot to be built upon.

2. The name and address of the owner(s) of record.
 3. Present zoning classification of the lot to be built upon.
 4. All setback lines from existing property lines.
 5. The location of existing or proposed access roads and easements.
 6. The shape, size, and location of all structures and other permanent supporting equipment or structures contained on the lot to be built upon.
 7. Present tax map and parcel designation according to official record in the office of the Smith County Property Assessor.
 8. The location of all proposed fences.
- B. Because of the nature and character of their operations, kennels can have a decidedly detrimental effect upon surrounding properties. Dog and/or car kennels tend to create problems of noise, health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics:
1. Shall conform to all the provisions of Tennessee Code, Section 44-17-101 through 44-17-120.
 2. A copy of the State of Tennessee license for dog and cat dealers must be filed yearly with the Smith County Regional Planning Commission. At any time the license may be suspended or revoked the person must notify the Smith County Regional Planning Commission within fifteen (15) days of such action.
 3. The kennel must be located on a 15-acre or larger lot located in an Agriculture district.
 4. No kennel shall be permitted closer than one thousand (1,000) feet from any established residential zone or any established residential structure.
 5. All building and fenced areas shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety of the animals and the public health or safety of the community.
 6. No kennel shall be permitted within five hundred (500) feet of any public road in Smith County, except where a more stringent state or federal law applies.
 7. The owner must provide a certificate of approval of subsurface sewer disposal systems from the county environmentalist and/or certificate of approval for sewer collection from the applicable utility district and certificate of approval for waterlines from the applicable utility district.
 8. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of adjacent property.
 9. All kennels shall have all dogs and/or cats kept within a fenced area and shall not be allowed to roam free and unleashed.
 10. All dogs and/or cats must be protected from all other dogs and/or cats that pose a danger to the safety of the animals located in the kennel.
 11. All kennels shall store and dispose of all rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent proof, insect proof, and watertight.
 12. Drinking water shall be provided daily in clean containers. Enclosures shall provide adequate drainage of surface water.
 13. Food provided shall be unspoiled and not contaminated.
 14. Fecal and food waste shall be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pest.

- Hard floors shall be scrubbed and disinfected weekly. Pens with dirt floors shall be raked every three (3) days and the waste removed.
15. All pens shall be well braced and securely fastened to the floor or in the ground and shall utilize metal clamps or braces of equivalent strength as that prescribed for cage construction.
 16. All outdoor cages shall provide adequate shelter from inclement weather conditions, shade from the sun and provide for the protection and health of the dogs and/or cats.

SECTION 9: EXOTIC ANIMALS

Because of the nature and character of exotic animals it is unlawful for any person, after the adoption of this ordinance, to possess, import, export, buy, sell, barter, propagate or transfer any wildlife with a category of class I wildlife under T.C.A. 70-4-403, whether indigenous to Smith County or not except with approval from the Board of Zoning Appeals. This does not apply to any State or Federal agency that is releasing animals that are native to Smith County.

No persons shall hold live wildlife with a different classification in captivity without first obtaining the appropriate permits from the Tennessee wildlife resources commission as provided by T.C.A. 70-4-404 and the Tennessee department of agriculture. All permits must be filed with the Smith County Planning Commission annually.

SECTION 10: EROSION AND SEDIMENT CONTROL REGULATIONS

PURPOSE AND SCOPE

The purpose of these regulations is to safeguard life, limb, property and the public welfare by regulating clearing, earthwork and other land disturbing activity and by requiring temporary and permanent provisions for erosion and sediment control.

These regulations set forth rules governing clearing and earthwork, including temporary and permanent controls for storm water drainage, erosion, and sedimentation.

DEFINITIONS

Architect. A person who is trained in the design and observation of the construction of buildings for the health, safety and welfare of the general public, and who is a registered professional architect in the State of Tennessee.

Bedrock. In-place, solid, and undisturbed rock.

Best Management Practices (BMP's). Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of storm water runoff. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage of raw material storage.

Borrow. Earth material acquired from an off-site location for use as fill on a site.

Building Official. The officer or employee of the Smith County Planning Office charged with the responsibility of enforcing these Erosion and Sediment Control Regulations.

Civil Engineer. An engineer whose training or occupation is in the designing and construction of public works, and of various private works, and who is a registered professional engineer in the State of Tennessee.

Civil Engineering. The application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.

Clean Water Act. The Federal Water Pollution Control Act, as amended, codified at 33 U.S. C. 1251 et. seq.

Clearing. The removal from land of trees, shrubs, grass, and/or other varied ground cover and vegetation useful for windbreaks, water retention and the maintenance of topsoil.

Community Waters. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of surface or subsurface water, natural, or artificial, lying within or forming a part of the boundaries of the Smith County.

Compaction. The densification of a material by mechanical means.

Cut. See excavation.

Detention facility. A dam or holding system constructed for the purposes of temporary storage of stream flow or surface water runoff and for releasing the stored water at controlled rates.

Drainage system. The system of pipes, ditches, swales, terraces, and structures by which surface or subsurface waters are collected and conducted from the site.

Earth Material. Any rock and/or natural soil exclusive of any decomposable matter.

Earthwork. Excavation, fill and backfill, compaction and grading.

Engineering Geologist. A geologist experienced and knowledgeable in engineering geology.

Engineering Geology. The application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

Erosion. The wearing away of the ground surface as a result of the movement of wind, water, and/or ice.

Erosion and sediment control plan. A written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a land disturbing activity.

Excavation. The mechanical removal of earth material.

Field Report. A record of observations of actual conditions on a site existing at the time such observations are made.

Fill or backfill. A deposit of earth by artificial means.

Finish or final grade. The grade of the site which conforms to the permitted plan.

Grade. The vertical location of the ground surface to a predetermined elevation datum.

Grading. The operation of raising or lowering the ground surface to a predetermined grade.

Impervious. Not allowing the passage of water through the surface of the ground or ground covering, or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

Lake. A body of water one (1) acre or more in surface area, created either by a manmade dam or other means of holding backwater.

Landscape architect. An architect whose training or occupation is in the design and observation of the development of land areas in order to preserve and enhance the proper, safe, and aesthetic use of land, and who is a registered professional landscape architect in the State of Tennessee.

National Pollution Discharge Elimination System (NPDES) Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

Nonpoint source. A contributing factor to water pollution that cannot be traced to a specific location, e.g. pesticides, agricultural fertilizer runoff, sediment from construction activity, etc.

Notice of Intent (N.O.I.). A written notice by a discharger of storm water to the Commissioner of the Tennessee Department of Environment and Conservation, or his designee, that the person wishes his discharge to be authorized under a general permit authorized by state law or regulation, particularly Rule 1200-10-.04 or Rule 1200-4-10-.04, Rules and Regulations of the State of Tennessee.

Point Source. A stationary location where pollutants are discharged.

Pond. A body of standing water less than one (1) acre in surface area, created either by a manmade or natural dam, or other means of holding back water.

Riprap. A protective course of stone or other like material placed on embankment slopes, channels, discharge areas, and other locations to prevent erosion.

Rough grade. The stage of construction at which the grade approximately conforms to the permitted plan.

Sediment. Solid material, both material and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water, gravity, or ice, as a product of erosion.

Sediment basin. A depression formed from the construction of a barrier or dam built at a suitable location to retain sediment and debris.

Site. Any lot or parcel of land or contiguous combination thereof, under the same ownership, including joint ownership, where clearing and/or earthwork is proposed, performed, or permitted.

Soil. Naturally occurring surface deposits overlying bedrock.

Soils engineer/geotechnical engineer. A professional engineer experienced and knowledgeable in the practice of soils engineering that is a registered professional engineer in the State of Tennessee.

Soils engineering. The application of the principles of soils mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials, and the inspection and testing of the construction thereof.

Storm water. Storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm water management. The collection, conveyance, storage, treatment, and disposal of storm water runoff in a manner to meet the objectives of these regulations, and its terms, including, but not limited to measures that control the increased volume and rate of storm water runoff and water quality impacts caused by manmade changes to the land.

Topsoil. The friable surface of soil, usually containing organic matter.

Vegetation/vegetative practice. Stabilization of erosive or sediment producing areas by covering the soil with:

- (a) Permanent seeding, producing long-term vegetative cover; or
- (b) Short term seeding, producing temporary vegetative cover; or
- (c) Sodding, producing areas covered with a turf of perennial sod-forming grass.

Watercourse. Any natural or artificial stream, river, creek, ditch, culvert, drain, or other waterway, in which water flows either continuously or intermittently, and which has a definite channel, bed and banks, including any adjacent area subject to inundation by reason of overflow of floodwater.

COMPATIBILITY

If any provisions of these regulations and any other provisions of law impose overlapping or contradictory requirements, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. These regulations do not relieve the applicant from provisions of any other applicable codes, ordinances, or regulations not explicitly repealed by these regulations.

SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of these regulations.

EXEMPTIONS

1. Accepted agricultural land management practices, such as plowing; cultivation; construction of agricultural structures; nursery operations such as the removal of or transportation of cultivated sod and trees; tree cuttings at or above existing ground level; and logging operations leaving the stump, ground cover, and root mat intact. All agricultural uses shall be subject to the Best Management Practices as defined by the Natural Resources Conservation Service to minimize increased runoff quantity and decreased quality from disturbed sites.
2. Public utility installations as follows: lateral sanitary sewer lines, water lines, storm sewer lines, telephone lines, cable television lines, electrical lines, and gas lines. Although exempt, public agencies are required to notify the Smith County Planning Director prior to starting any construction and to submit plans, if requested, to allow coordination with other activities.
3. Construction, repair, or rebuilding of tracks or other related facilities of a railroad company.

HAZARDOUS CONDITIONS MUST BE RECTIFIED

Whenever the Director of Planning is made aware of and determines that any existing land condition or exposed surface created or caused by means of clearing, earthwork or other land-disturbing activity has:

- (1) become a hazard to life and limb;
- (2) endangered property;
- (3) affected the safety, use or stability of a public way or drainage channel, or
- (4) caused erosion,

the owner, upon receipt of notice in writing from the Director of Planning, shall rectify or eliminate the stated hazardous condition within the time period specified therein to bring the property into conformance with the requirements of these regulations. It shall be a violation of these regulations for the owner to fail to eliminate the hazardous condition within that time.

NPDES PERMIT REQUIRED

If five (5) acres or more (or the area specified in the most current Tennessee Department of Environment and Conservation regulations) are to be disturbed the developer is required to apply for coverage under the "State of Tennessee's General NPDES Permit for Storm Water Discharges Associated with Construction Activity." To seek coverage under the Tennessee Department of Environment and Conservation General Permit, a Notice of Intent (NOI) shall be submitted to the Storm Water Coordinator, Division of Water Pollution Control, Tennessee Department of Environment and Conservation at least fifteen (15) days prior to site disturbance. Notice of Intent forms may be obtained at the Division of Water Pollution Control's central office in Nashville, Tennessee. Three (3) copies of the NOI, and of any site specific erosion control plan developed for submittal with the NOI, shall be submitted to the Smith County Planning Office before any grading occurs.

FEDERAL AND STATE PERMITS

The Developer bears the responsibility for obtaining any permits required by the U.S. Army Corps of Engineers, Tennessee Division of Water Pollution Control, Tennessee Division of Ground Water Protection, Region IV of the U.S. Environmental Protection Agency, or by any other federal or state agencies. Following is a non-inclusive list of permits that may be required:

A. U. S. Army Corps of Engineers:

Section 301 of the Clean Water Act prohibits the discharge of dredged or fill material into waters of the United States unless the work has been previously authorized by a permit pursuant to Section 404 of the same Act. Placement of dredged or fill material below ordinary high water of any water in conjunction with drainage improvements (e.g., channel realignments, concrete slope paving) will require a DA permit prior to construction. The placement of dredged or fill material or any grading activities within a wetland must also be in compliance with Section 404 of the Clean Water Act. If a permit is required, approximately sixty (60) days would normally be required for permit processing. Depending on the nature and location of the work, it is possible that the work has been previously approved under authority of the Nationwide Permit and individual processing would not be required.

B. Tennessee Division of Water Pollution Control

In accordance with the Tennessee Water Quality Control Act, T.C.A. 69-3-108, any activity which alters the course or physical character of a stream, defined by a blue line on a 7 ½ minute U.S.G.S. (United States Geological Survey) quadrangle, requires an Aquatic Resource Alteration Permit (ARAP). This permit is required for activities such as stream channelization, stream enlargement, dredging, and diversions in box culverts.

GENERAL REQUIREMENTS FOR EROSION AND SEDIMENT CONTROL

The following general requirements shall apply for all land disturbing activities:

1. Stripping of vegetation, re-grading and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than twenty (20) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area.
2. Property owners shall be responsible upon completion of land disturbing activities to leave slopes so that they will not erode. Such methods could include revegetation, mulching, or rip-rapping. Regardless of the method used, the objective will be to leave the site as erosion-free and maintenance-free as practicable.
3. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
4. Permanent or temporary soil stabilization must be applied to disturbed areas to the extent feasible within seven (7) days on areas that will remain unfinished for more than thirty (30) calendar days. Permanent soil stabilization with perennial vegetation shall be applied immediately after final grading is reached on any portion of the site. Soil stabilization refers to measures which protect soil from the erosive forces of wind, raindrop impact and flowing water, and includes the growing

- of grass, sod, application of straw, mulch, fabric mats, and the early application of gravel base on areas to be paved.
5. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.
 6. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized.
 7. Neighboring persons and property shall be protected from damage or loss resulting from excessive storm water runoff, soil erosion or deposition upon private property or public streets of water transported silt and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare banks.
 8. Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday.
 9. Structural controls shall be designed and maintained as required to prevent pollution. All surface water flowing toward the construction area shall to the extent practicable be diverted by using berms, channels, or sediment traps as necessary. Erosion and sediment control measures shall be designed according to the size and slope of disturbed drainage areas, to detain runoff and trap sediment. Discharges from sediment basins and traps must be through a pipe or lined channel so that the discharge does not cause erosion. Muddy water to be pumped from excavation and work areas must be held in settling basins or treated by filtration prior to its discharge into surface waters where practicable. Water must be discharged through a pipe or lined channel so that the discharge does not cause erosion and sedimentation.

MONITORING AND MAINTENANCE OF CONTROL MEASURES REQUIRED

The developer shall ensure that all erosion and sediment control measures are regularly monitored and repaired as necessary. At a minimum all control measures shall be checked weekly in dry periods and within 24 hours after any rainfall of 0.5 inches within a 24-hour period. During prolonged rainfall, daily checking and repairing is necessary. The developer shall maintain records of such checks and repairs.

A specific individual shall be designated to be responsible for erosion and sediment controls on each site. The name, address and phone number of the individual responsible for the erosion and sediment controls shall be indicated on the permit application.

There shall be no distinctly visible floating scum, oil or other matter contained in the storm water discharge. The storm water discharge must not cause an objectionable color contrast in the receiving water. The storm water discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

DESIGN STANDARDS

The following minimum design standards for erosion and drainage control shall apply:

1. Erosion, sedimentation, and drainage control measures, pipes, structures, and devices shall be planned, designed, constructed, operated and maintained so as to provide effective soil and drainage control from the peak runoff rates using a ten (10) year frequency storm as a minimum. Higher runoff rates of up to a 100 year frequency storm may be required if determined necessary by the Director of Planning.
2. Where warranted by local controlling factors, such as protection of downstream structures, or as determined by the Director of Planning, a different storm frequency may be required.
3. Runoff shall be calculated using the Rational Formula or the Natural Resources Conservation Service (NRCS) methods for drainage areas up to 100 acres. For watersheds larger than 100 acres but smaller than 2000 acres, NRCS methods may be used. For larger watersheds, flood frequency methods or Corps of Engineer's methods may be used. Other alternative methods may be used upon approval by the Director of Planning.

NOTIFICATION OF NON-COMPLIANCE

If the owner, his contractor, or his consultants finds that the work is not being done in conformance with these regulations, the discrepancies if not corrected in a timely manner, shall be reported immediately in writing to the Director of Planning. Plans for corrective measures shall be submitted to the Director of Planning along with an appropriate schedule for completion of such corrections.

RIGHT OF ENTRY

The Director of Planning or any of duly authorized representatives may enter upon the premises of any land located within the Smith County, Tennessee for the purpose of inspecting the site before, during, and after construction to determine compliance with these regulations.

STOP WORK ORDERS

Upon notice from the Director of Planning, work being performed on any site within Smith County contrary to the provisions of these regulations shall be immediately stopped. Such notice shall be in writing and shall be given to the owner or developer of the property or to the person doing the work, and shall state the conditions under which the work may be resumed.

PENALTIES

Any person who shall violate a provision of these regulations or fails to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed or continued, and upon conviction of any such violation such person shall be punished by a fine of not less than \$50.00 or more than \$5,000.00 for each and every violation, in addition to any applicable State or Federal fines.

Any cost or cleanup expense incurred by the county to remove sediment and/or erosion from any public place, right-of-way, or property shall be assessed to the developer and/or owner.

SECTION 11: GENERAL REQUIREMENTS FOR CAMPGROUNDS AND RECREATIONAL VEHICLE (RV) PARKS (amended January 12, 2009)

The purpose and objective of this Section is to recognize the value of and establish reasonable standards for the development of recreational vehicle parks and the development of incidental camping areas and campgrounds, for the benefit of the general public utilizing such parks and facilities.

A. Definitions.

1. For the purposes of this Section, certain terms or words are defined as follows:
 - a. Recreational Vehicle (RV): A vehicular type unit primarily designed as a temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. (i.e. Travel trailers, camping trailers, truck campers or motor homes)
 - b. Recreational Vehicle (RV) Park: Any plot of ground within Smith County on which two (2) or more recreational vehicles, occupied for camping or periods of short stay, are located.
 - c. Travel Trailers: Includes all transportable units which provide temporary occupancy, whether or not self-contained or self propelled, and the term travel trailer includes those units identified by the manufacturer as travel trailers or recreational vehicles, such as pickup truck campers, motor homes, converted buses, pop-top (tent) trailers, and other units which:

1. Can operate independently of connections to external sewer, water, and electrical systems; and
2. Contain water storage facilities

B. Campgrounds And Recreational Vehicle (RV) Parks

1. Site Plan Required

A campground and recreational vehicle (RV) park building permit may only be issued upon submission and approval by both the Smith County Regional Planning Commission and the Land Use Regulations Administrator of a site building plan containing the following information. The owner, lessee, or an authorized representative shall submit the site plan for review. The site plan shall contain the following elements:

- a. The name and address of the applicant.
- b. The park plan drawn to scale that includes the location, area, and dimensions of the proposed campground and recreational vehicle (RV) park site as well as a legal description.
- c. The location, size, and number of all camping/RV spaces as well as any cabin rentals.
- d. The location and size of all buildings, improvements, and facilities.
- e. The location and dimensions of all water line and sewer treatment facilities.
- f. The proposed use of buildings shown on the site plan.
- g. The location, width, and size of all driveways, walkways, and internal streets to include the overall Internal circulation plan (roadways and pedestrian walkways).
- h. The location and number of all off-street parking facilities.
- i. The location of park and recreation areas.
- j. A complete drainage plan with contour lines at five (5) feet.
- k. A location map showing the park site in relation to the existing public street pattern and indication of uses of property adjacent to the site and the location of all buildings within two hundred (200) feet of the site.
- l. A time schedule for building shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.
- m. Certificate of ownership and dedication, certificate of accuracy from the surveyor or engineer, certificate for approval of subsurface sewer disposal systems from the county environmentalist and/or certificate of approval for sewer collection system from the applicable utility district, certificate of approval for waterlines from the applicable utility district, certificate of entrance and exit approval by the County Road Superintendent, certificate of approval of electric service from the applicable power system, and a certificate of approval from the secretary of the planning commission.
- n. Such other architectural, engineering, and topographical data as may be required to permit the Smith County health department, the applicable utility district, the Land Use Regulations Administrator, and the Smith County Regional Planning Commission, to determine if the provision of these regulations are being complied with shall be submitted with the site plan.

2. Application Fee

All site plans shall be submitted with a two hundred fifty (\$250.00) Dollar application fee and for each site plan submitted for review. The application fees are non-refundable. The fee shall be paid at the Land Use Regulations Administrator's Office.

C. Standards

1. General

- a. A campground and recreational vehicle (RV) park shall be located only as a Permitted use within those districts where permitted on a well-drained and flood free site with proper drainage. The Smith County Flood Insurance Rate Map (FIRM) dated 9/14/85 or subsequent updates to said maps shall be used to determine floodable areas.
- b. No part of the park shall be used for residential purposes, except such uses as are required for the direct servicing and well being of park guests and for the management and maintenance of the park.
- c. Permanent cabins may be substituted for individual Camp/RV sites, provided that the cabins have a minimum clearing of two hundred (200) feet in all directions from any other cabin, camp site or RV site.
- d. No Cabin or Camp/RV site may be used for permanent dwelling.
- e. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the Guests. The site shall not be exposed to objectionable smoke, dust, noise, odors, or other adverse influences, and no portion subject to flooding or erosion and shall be used for any purpose which would expose persons or property to hazards.

2. Minimum Lot Size

No campground and recreational vehicle (RV) park shall be approved which contains less than two (2) acres in area.

3. Dimensional Requirements for Parks

- a. Along the entire periphery of the park, yards and setbacks meeting the district regulations shall be provided.
- b. No building or structure erected or stationed in a park shall have a height greater than two (2) stories or thirty (30) feet.
- c. Each park shall be permitted to display, on a street frontage, one (1) identifying sign. Said sign(s) shall contain thereon only the name and address of the park and may be lighted by indirect lighting only.

4. Spacing of Sites and Site Coverage

- a. Each Camp/RV site shall be so harbored on each space that there shall be at least thirty (30) feet clearance in all directions between any attached or unattached structure or another site.
- b. There shall be a minimum distance of thirty (30) feet between the nearest edge of any Camp/RV site and an abutting access street, a minimum of fifteen (15) feet from the inner edge of any buffer line or if no buffer is applicable the property line, and a minimum of thirty (30) feet from any drainage channel or designated 100-year floodplain area.
- c. The Campground/RV park shall not contain more than eight (8) individual sites per gross acre.

5. The Camp/RV Site

The limits of each camp site/RV Space/Cabin shall be marked on the ground by suitable means. Location of site limits on the ground shall be the same as shown on accepted plans. No site shall be smaller than five thousand (5,000) square feet.

6. Utilities and Other Services

- a. An accessible, adequate, safe and potable supply of water shall be provided to each cabin and Camping/RV site.
- b. Each cabin and Camping/RV site shall be provided with the connection to the sanitary line or to a sewer system approved by the Smith County Environmentalist.
- c. Solid waste collection stands shall be provided for waste containers for each recreational vehicle. Any central waste container shall be screened from view with access appropriately provided.
- d. Service buildings housing sanitation, laundry, or bathing facilities shall be permanent structures complying with all applicable ordinances and statutes, regulations, buildings, electrical installations, and plumbing and sanitation systems.
- e. Each park shall be maintained free of litter and accumulation of any kind of debris which may provide rodent harborage or breeding places for flies, mosquitoes, or other pests.

7. Internal Streets and Lighting

Entrances to all parks shall have direct connections to a public street and shall be designed to allow free movement of traffic on the adjacent public street. All proposed park entrances and exits that abut a public road shall be approved by the County Road Superintendent prior to final approval and be a minimum of five hundred (500) feet apart at the intersection with a local road or collector road. Greater spacing of the entrance and exits may be required for intersections with arterial roads.

Safe and convenient vehicular access shall be provided from abutting public streets to each lot. Such access shall be provided by streets or driveways. All internal streets shall be private and maintained by the owner or lessee.

a. Circulation

The internal street systems should provide convenient circulation of vehicle traffic and be located and designed as prescribed by the Smith County Regional Planning Commission. Dead-end streets shall be limited in length to one thousand (1,000) feet and their closed end shall be provided with an adequate turn-around with an outside roadway pavement diameter of eighty (80) feet. An adequate drainage system including necessary open ditches, pipes, culverts, drains, or other drainage facilities shall be provided for the proper drainage of all surface water.

b. Pavement Widths

Minimum pavement (road surface) widths for internal roadways shall be at least eighteen (18) feet wide.

c. Street Construction

The internal streets and drives shall be paved with hard surface material which shall be no less than double bituminous (tar/chip) surface with a compacted six (6) inch depth base.

d. Internal Street Lights

The park shall be adequately lit at night with a minimum of 1 street light for every 2000 linear feet of street.

8. Walks

All buildings shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided. The surface of all

walkways shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet.

9. Common Areas

An adequate common area with park facilities for the guests of the park shall be provided in locations easily accessible to the sites and where they do not impair the view and privacy of the sites. The common area shall contain a minimum of twenty percent (20%) of the gross site area of the park. Attractive outdoor sitting areas with benches, pavilions for cook outs, and picnic tables shall be provided, appropriate in size, type and number to adequately meet the needs of the guests.

For parks with more than 32 individual sites, active leisure facilities shall be provided for children visiting the park. The facilities shall be composed of activities such as basketball courts, volleyball courts (sand), tennis courts and playgrounds.

All common areas shall have adequate lighting, so as to prevent children from getting lost, various crimes, and so forth.

10. Buffer and Screening

A landscape buffer shall be provided along the perimeter of the Park boundaries not less than fifteen (15) feet in width, except that a minimum buffer area from any public street shall be no less than twenty (20) feet.

Within the landscaped buffer, a continuous fence six (6) to eight (8) feet high or landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

11. Site Design

The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. The planting plan shall be submitted with the site building plan.

12. Parking

a. Off-Street Parking

Paved off-street parking may be grouped in bays, either Adjacent to streets or in the interior of blocks or on the Camp/RV site. Such parking areas shall generally be located in close proximity to the sites they are designed to serve. At least two (2) parking spaces per site shall be provided for each camp/RV site or cabin.

D. Responsibility of Park Management

1. The owner shall maintain a register containing the following information:
 - a. The name and address of each Guest.
 - b. The make, model, year, and license number of each motor vehicle.
 - c. The date of arrival and of departure of each Guest.
2. The park shall keep the register record available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

E. Responsibilities of Park Guests

1. The park Guests shall store and dispose of all rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent proof, insect proof and watertight.
2. All park Guests shall be required to have their pets (dogs) kept within a fenced area or portable cage and shall not be allowed to roam free and unleashed.
3. No inoperative automobiles, junk, or non-contained trash shall be allowed within the park.

F. Inspections

1. The Land Use Regulations Administrator is hereby authorized to make inspections to determine the conditions of the parks, in order to insure the health and safety of Guests of Camping and Recreational Vehicle parks and of the general public.
2. The Land Use Regulations Administrator shall have the power to enter upon any private and public property for the purpose of inspecting and investigating conditions relating to the annual inspection as it is related to the enforcement of this section, and may at his or her discretion be accompanied by a deputy from the Smith County Sheriff's Department. The Land Use Regulations Administrator does not have the power to enter any private structure for the enforcement of this section.
3. Penalties
 - a. Any person violating any provisions of this section shall be guilty of a misdemeanor and upon conviction shall be find not less than five (\$5.00) dollars nor more than fifty (\$50.00) dollars for each offense.
 - b. Each day that a violation is permitted to exist shall constitute a separate offense.
 - c. Any expansion of an existing park shall require the approval of the Smith County Regional Planning Commission and Land Use Regulations Administrator. Expansion shall include, but is not limited to, the addition of more sites and/or utilities after the date of adoption of this zoning regulation.

G. Prohibited Structures

1. Permanent structures not on the approved site plan are not permitted.
2. Manufactured homes shall not be allowed in the park for any use.

H. Intent

It is the intent of this Section that all Campgrounds and recreational vehicle (RV) parks be developed in rural locations that would best serve the needs of tourists and recreational uses. Therefore each parcel of land to be used for campgrounds and recreational vehicle (RV) parks should be reasonably located within high exposure areas of Smith County's lakes, rivers, parks, and high density wooded areas. (amended January 12, 2009)

SECTION 12: Deer/Game Processing Facilities (amended January 12, 2009)

All Deer and Game processing facilities must comply with all regulations as set forth by the State of Tennessee in TCA 53-7-201 through 220, including any subsequent revisions and amendments as well as any regulations set forth by the US Food and Drug Administration or FDA. All game/deer processing facilities must comply with the following

1. Local Business Taxes and Licenses (by the city, county, and/or state)
2. Registration of Food Facility Requirements (with the FDA)
3. Good Manufacturing Practices (as required by FDA)
4. Food Labeling Requirements (FDA if applicable)
5. State Retail Licensing (TN Department of Agriculture (TDA) if applicable)

In view of the bulk of deer carcasses and the uncertainty in their arrival at the facility, commercial grade refrigeration equipment must be used to store the carcasses, when needed, prior to processing.

The facility must be equipped with commercial grade freezing equipment to facilitate the bulk freezing of the meat and its storage for a number of days prior to collection.

The person-in-charge shall ensure that all deer meat processed at the facility appears by visual inspection;

- a) Wholesome and free from spoilage, filth, or other contamination;
- b) Safe for human consumption.

All equipment and utensils used in the processing of game/deer are designed, constructed, and maintained to:

- a) Accomplish its intended and required functions;
- b) Protect the food from internal and external contamination;
- c) Be durable under normal conditions and operations, resistant to denting, buckling, pitting, chipping, crazing, and excessive wear;
- d) Have reasonably smooth, washable, and readily accessible non-food contact surfaces where the surfaces are exposed to splash, food debris, or otherwise require frequent cleaning;
- e) Withstand repeated scrubbing, scouring, and the corrosive action of food, cleansers, and sanitizing agents; and
- f) Prevent harboring of soils, bacteria, or pests in or on the equipment itself as well as in its contact with other equipment, floors, walls, or supports.

Materials used as food contact surfaces of equipment are:

- a) Nontoxic and inert to the food under the conditions of use and the materials may not migrate to or be absorbed by the food;
- b) Non-porous and relatively nonabsorbent.

Food contact surfaces of equipment and utensils are designed, constructed and maintained to be smooth, easily cleanable and in good repair.

All floors and floor coverings are kept clean and in good repair;

- a) All mats, floor coverings or duckboards are designed to be removable and easily cleanable;
- b) The floors of all food preparation, food processing, food storage, and utensil washing rooms and areas, and walk-in refrigerators, dressing or locker rooms, and toilet rooms are constructed of smooth, durable, nonabsorbent, and easily cleanable materials

All walls and ceilings, including doors, windows, skylights, and similar closures, are kept clean and in good repair.

Effective and approved control measures are used to eliminate the presence of rodents, flies, roaches, and other vermin on the premises. The premises are kept in a condition that will prevent the harborage of vermin.

The disposal of all carcasses shall be by proper means. No carcass may be stored outside after processing. (amended January 12, 2009)

SECTION 13: Taxidermy Facilities (amended January 12, 2009)

All Deer and Game processing facilities must comply with all regulations as set forth by the State of Tennessee as well as any regulations set forth by the US Fish and Wildlife Service.

In addition to the state and federal regulations, the following must be observed as well:

1. The disposal of all waste products shall be by proper means. No waste material may be stored outside after processing.

2. Effective and approved control measures are used to eliminate the presence of rodents, flies, roaches, and other vermin on the premises. The premises are kept in a condition that will prevent the harborage of vermin.
3. Effective and approved control measures are used to control odors so that surrounding property is not affected by noxious fumes, unpleasant odors, etc.
4. All appropriate licenses required by the county, state, or federal governments must be kept on file in the premises.
5. Commercial grade refrigeration equipment must be used to store the carcasses, prior to processing.
6. Must comply with TN Wildlife Resource Agency Rule 1660-1-10, including any subsequent revisions and amendments. (amended January 12, 2009)
- 7.

SECTION 14: Wineries (amended July 2013)

For purposes of this section, winery means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine, or as defined by TCA 57-3-101.

- A. The owner shall obtain all applicable licenses and approvals from any required Local, State or Federal authority including, but not limited to the Tennessee Alcoholic Beverage Commission and the Tennessee Department of Agriculture prior to commencement of winery operations.
- B. The minimum lot area for any winery shall be 15 acres.
- C. A minimum of 5 acres of the winery site shall be utilized and maintained for growing grapes or other crops used in wine production.
- D. Any winery must be a minimum of 2000 feet from the nearest church or school and 300 feet from the nearest residence.
- E. The total floor area of all buildings used for processing/bottling, wine storage, or office space shall not exceed 10,000 square feet.
- F. All buildings, parking, and loading areas shall be set back a minimum of 100 feet from the property.
- G. The following accessory uses and activities are permitted in conjunction with a winery:
 - o Where otherwise permitted by State or Federal law and regulation, on-premise tastings and the sale of wine and wine-related products. The aggregate total floor area for such sales and tastings shall not exceed 4,000 square feet
 - o Buildings housing meeting areas for events such as weddings, reunions, parties, conventions, etc shall be limited to 6,000 square feet. If housed within the same structure as sales and tastings areas, the combined square footage shall not exceed 10,000 square feet.
 - o Daily tours shall be permitted between 9:00 a.m. and sunset.
 - o Attendance at special events is limited to 250 people. These may include wine appreciation/education seminars, non-profit benefits, weddings, and similar events. Outdoor events shall be completed during daylight hours.

ARTICLE VI: ZONING DISTRICTS

SECTION 1: ESTABLISHMENT OF DISTRICTS

For the purpose of this resolution, the following zoning districts are hereby established in Smith County, Tennessee:

<u>District Abbreviation</u>	<u>District Name</u>	<u>Density Type</u>
A-1	Agriculture	Low
R-1	Residential	Low to Moderate
R-C	Residential-Commercial	Moderate to High
C-1	General Commercial	Moderate to High
I-1	General Industrial	Moderate to High
ATOD	Agri-Tourism Overlay District	
F-1	Flood Hazard Overlay	

SECTION 2: ZONING MAP

The location and boundaries or the zoning districts established by this resolution are bounded and defined as shown on the map, entitled Zoning Map of Smith County, Tennessee. The zoning map and any amendment thereto shall be dated with the effective date of the resolution that adopts same. Certified prints of the adopted zoning map and zoning map amendments shall be maintained in the office of the Smith County Land Use Regulations Administrator and shall be available for inspection by the public at all reasonable times, as long as this resolution remains in effect.

SECTION 3: ZONING DISTRICT BOUNDARIES

Unless, otherwise, indicated on the zoning map amendment, the district boundaries are lot lines, centerlines of streets or alleys, or the Smith County boundary lines as they exist at the time of the enactment of the zoning resolution. Questions concerning the exact locations of district boundaries shall be determined by the Smith County Board of Zoning Appeals.

Where a district boundary line divides a lot which was in single ownership at the time of passage of this resolution, the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.

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

SECTION 4: SPECIFIC DISTRICT REGULATIONS

The following regulations shall apply in the six (6) zoning districts.

SECTION 4-1: AGRICULTURE DISTRICT (A-1)

It is the intent of this district to provide space for forestry, agriculture and agriculturally oriented uses and structures which provide an important part in the economy of Smith County. It is the intent here to protect the physical and economic well being of agriculture operations and to prevent the encroachment of urban and other incompatible land uses on farmlands by minimizing conflicts between agricultural and forestry activities with various non-farm activities; to permit lands best suited for intense agricultural uses to be reserves for these suited purpose; and to prevent lands unsuitable for building of an urban or nor rural nature, due to topographic problems, location, or the inability to provide necessary urban services, or being encroached upon by these incompatible land uses. Areas assigned to the A-1 District are primarily areas where low density land use activities are deemed desirable for more of the reasons outlined above and is consistent with the provisions and intent of the Smith County Growth Plan and sections 6-58-101 through 6-58-115 Tennessee Code.

USES PERMITTED. In order to achieve the intent of the A-1 district the following uses are permitted:

1. Farming uses, and farming's accessory structures and related uses including roadside stands for the sale of farm produce grown on premises. This does not include large scale hog and chicken farming.
2. Aquaculture
3. Feed lots which comply with all applicable state and federal laws.
4. Detached single-family dwellings.
5. Mobile homes and Manufactured Homes on individual lots. (Amended May 2013)
6. Public utility facilities necessary for public service.
7. Customary accessory buildings or structures.
8. Churches, cemeteries and schools.
9. Bed and Breakfast Establishments and Homesteads.
10. Public recreational facilities
11. Medical facilities
12. Commercial Transmission and Communication Towers and Stations
13. Military bases and/or reservations
14. Daycare Homes
15. Signs and Billboards
16. Commercial Surface quarrying of topsoil as an accessory use and which complies with all applicable local, state and federal laws.
17. Nurseries, including the production and cultivation, on site, for sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental, landscaping, or tree planting purposes. [**Amended Jan. 10, 2005**]

SPECIAL EXCEPTION The following uses may be permitted as special exceptions in an A-1 district after review by the Board of Zoning Appeals. (Amended May 2013)

1. Two-family dwellings
2. Mobile homes parks and Manufactured Homes parks that comply with all provisions of this Resolution. (Amended May 2013)
3. Government and Community Centers
4. Daycare Centers
5. Airports
6. Correctional Institutions
7. Dog and Cat Kennels
8. Campgrounds And Recreational Vehicle (RV) Parks (amended January 12, 2009)
9. Deer/Game Processing Facilities (amended January 12, 2009)

10. Taxidermy facilities (amended January 12, 2009)

USES PROHIBITED In order to achieve the intent of the A-1 District, all uses not approved as a special exception by the Board of Zoning Appeals are prohibited.

AREA REGULATION All uses within the Agriculture District (A-1) shall comply with the following requirements:

1. Minimum Lot Size

a. Minimum Area Per Dwelling:

With Public Water and Adequate Fire Protection*1 acre
With only Public Water.....1 acre (amended July 9, 2018)
Without Public Water.....3 acre

b. Lot Width at Building Setback Line:

With Public Water and Adequate Fire Protection* 125 ft.
With only Public Water.....150 ft.
Without Public Water.....175 ft.

2. Minimum Yard Requirements

a. Front Setback.....40 ft.
b. Rear Setback.....15 ft.
c. Side Setback
With Public Water and Adequate Fire Protection*.....15 ft.
With only Public Water.....25 ft.
Without Public Water.....25 ft.

**See "Adequate Fire Protection" in Definitions Section.*

MAXIMUM LOT COVERAGE: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50%) of the total area of such lot or parcel or the buildable area of said lot as defined by the front, side, and rear yard setbacks, whichever is less.

SECTION 4-2: RESIDENTIAL DISTRICT (R-1)

The R-1, Rural Residential District is intended to provide areas which are primarily suitable for low-density, large-lot single family residential building within a rural atmosphere. The district is particularly suitable for areas adjacent to urban areas, where an adequate public water supply and possibly public sewer service is available and is consistent with the overall purpose and intent of the Smith County Growth Plan and sections 6-58-101 through 6-58-115 Tennessee Code.

USES PERMITTED: In order to achieve the intent of the R-1 district, the following uses are permitted:

1. Single-family residences
2. Customary home occupations
3. Mobile homes and Manufactured Homes on individual lots. (Amended May 2013)

4. Farming uses, and farming’s accessory structures and related uses including roadside stands for the sale of farm produce grown on premises. This does not include large scale hog and chicken farming.
5. Aquaculture
6. Publicly owned recreation facilities and grounds
7. Public buildings and public utility stations
8. Churches, cemeteries and schools
9. Bed and Breakfast Establishments and Homesteads

SPECIAL EXCEPTON:The following uses may be permitted as special exceptions in an R-1 district subject to review of the Board of Zoning Appeals. (Amended May 2013)

1. Two-family dwellings provided the use is in compliance with all yard off-street parking requirements that the Board of Zoning Appeals places on the special exception.
2. Accessory Apartments provided that only one (1) accessory apartment per single family dwelling is permitted, the use is located within or attached to the principal single family dwelling, the use is in compliance with the off-street parking requirements that the Board of Zoning places on the special exception Appeals sets.
3. Mobile homes parks and Manufactured Homes parks that comply with all provisions of this Resolution. (Amended May 2013).
4. Incidental home occupations provided that no more than fifty percent (50%) of the total habitable floor area of the principal building is devoted to such use and is in compliance with the off-street parking requirements that the Board of Zoning Appeals places on the special exception.
5. Commercial Transmission and Communication Towers and Stations Meeting the requirements of Article V, Section 7.

USES PROHIBITED In order to achieve the intent of the R-1 District, all use except those specifically permitted or permitted upon approval as a special exception by the Board of Zoning Appeals are prohibited.

AREA REGULATIONS All uses within the Residential District (R-1) shall comply with the following requirements:

1. Minimum Lot Size
 - a. Minimum Area per Dwelling:

Number Dwellings Units	With Public Water, Public Sanitary Sewer, and Adequate Fire Protection*	With Public Water Private Subsurface Sewerage Disposal System, and Adequate Fire Protection*
1	15,000 sq. ft.	30,000 sq. ft.*
2	30,000 sq. ft.	60, 000 sq. ft.*

With only Public Water

1 1 Acre 1 Acre*

*Greater area may be required by the Smith County Environmentalist for private sewage disposal due to factors of drainage, soil conditions, or other conditions that are determined to be a potential health risk to the general public.

b. Minimum Lot Width at Building Setback Line:

 With Public Water and Adequate Fire Protection*....100 ft.
 With only Public Water.....150 ft.

2. Minimum Yard Requirements

- a. Front Setback.....40 ft.
- b. Rear Setback.....15 ft.
- c. Side Setback.....15ft.

**See "Adequate Fire Protection" in Definitions Section*

MAXIMUM LOT COVERAGE: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35%) of the total area of such lot or parcel or the buildable area of said lot as defined by the front, side, and rear yard setbacks, whichever is less.

SECTION 4-3: RESIDENTIAL-COMMERCIAL DISTRICT (R-C)

It is the intent of this district to provide areas for a mixture of moderate to high density residential and limited commercial buildings that are congruent with one another and function in a harmonious environment together. The general character of the district will consist of a mixture of residential buildings that will derive benefits and services from the commercial buildings that directly support those residential areas and is consistent with the overall purpose and intent of the Smith County Growth Plan and sections 6-58-101 through 6-58-115 Tennessee Code.

USES PERMITTED In order to achieve the intent of the R-C district the following uses are permitted:

- 1. Farming uses, and farming’s accessory structures and related uses including roadside stands for the sale of farm produce grown on premises. This does not include large scale hog and chicken farming.
- 2. Single-family residences
- 3. Customary home occupation
- 4. Two-family and multi-family dwellings
- 5. Accessory Apartments
- 6. Mobile homes and Manufactured Homes on individual lots. (Amended May 2013)
- 7. Churches, cemeteries and schools,
- 8. Publicly owned recreation facilities, recreational grounds, and services
- 9. Daycare homes and Daycare centers
- 10. Public administration buildings and public utility stations

11. Customary accessory buildings or structures provided they are located in the rear yard
12. Incidental home occupations
13. Bed and breakfast establishments and homesteads
14. Community assembly buildings to include civic, social, fraternal and philanthropic institutions, lodges, and similar type uses.

SPECIAL EXCEPTION The following uses may be permitted as special exceptions in an R-C district subject to all applicable conditions and after review by the Board of Zoning Appeals.

1. Neighborhood retail stores and markets including the following types of stores:
 - a) Food, general merchandise, apparel furniture, household and hardware, radio and television, drug and sundries, jewelry and gifts, florists, sporting goods, and similar services.
2. Neighborhood services including the following:
 - a) Barber and beauty shops, hardware, shoe repair restaurants, radio and television repair, and similar uses.
3. Laundry and dry cleaning establishments where no flammable or toxic chemicals are used. Anyone wishing to establish a dry cleaning facility must provide proof that the chemicals are used in the cleaning processes are not flammable or toxic.
4. Professional Offices including offices for the following:
 - a) Doctor and dentist, lawyers, architects, accountants, engineers, Insurance agents, real estate agents, and similar type uses.
5. Healthcare facilities to include the following:
 - a) Rehabilitation centers, nursing homes, medical clinics, and assisted living facilities.
6. Commercial Transmission and Communication Towers and Stations.

AREA REGULATIONS All uses within the Residential District (R-C) shall comply with the following requirements:

1. Minimum Lot Size
 - a. Minimum Area for Single-family and Two-family Dwellings:

Number of Dwellings Units	With Public Water, Public Sanitary Sewer, and Adequate Fire Protection*	With Public Water, Private Subsurface Sewerage Disposal System, and Adequate Fire Protection*
1	15,000 sq. ft.	30,000 sq. ft.
2	25,000 sq. ft.	60,000 sq. ft.

With only Public Water

1	1 Acre	1 Acre
---	--------	--------

- See “Adequate Fire Protection” in Definitions Section

b. Minimum Area for Multi-family Dwellings:

Number of Dwellings Units	With Public Water Public Sanitary Sewer, and Adequate Fire Protection*	With Public Water, Private Subsurface Sewerage Disposal System, and Adequate Fire Protection*
3	30,000 sq. ft.	80,000 sq. ft.
4	37,500 sq. ft.	100,000 sq. ft.
More than 4 units	7,500 sq. ft. for each additional unit	Not permitted unless on-site treatment system is utilized and approved by the Smith County Environmentalist. 100,000 sq. ft. plus 7,500 sq. ft. for each unit over four.

c. Minimum Lot Width at Building Setback Line:

With Public Water and Adequate Fire Protection....100 ft.
With only Public Water.....150 ft.

2. Minimum Yard Requirements

- a. Front Setback.....40 ft.
- b. Rear Setback.....15 ft.
- c. Side Setback.....15 ft.

USES PROHIBITED In order to achieve the intent of the R-C District, all uses except those or their accessory uses specifically permitted or permitted upon approval as a special exception by the Board of Zoning Appeals are prohibited.

MAXIMUM LOT COVERAGE On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty percent (50%) of the total area of such lot or parcel or the buildable area of said lot as defined by the front, side, and rear yard setbacks, whichever is less.

SECTION 4-4: GENERAL COMMERCIAL DISTRICT (C-1)

It is the intent of this district to establish areas of light commercial activity that are compatible with adjacent residential areas or to serve residential areas that are in close proximity to this district by providing sufficient space and appropriate locations for local retail trade and professional services, and other support services that are necessary for the health, safety, morals, prosperity, and economic vitality of Smith County residents. The General Commercial District is composed of those uses determined to be necessary for the general welfare of the residents and is consistent with the overall purposes and intent of the Smith County Growth Plan and sections 6-58-101 through 6-52-115 Tennessee Code.

USES PERMITTED In order to achieve the intent of the C-1 district the

Following uses are permitted:

1. Stores and shops conducting retail business.
2. Personal business and professional services and offices.
3. Public and semi-public buildings such as, churches, schools, fire stations etc.
4. Financial institutions
5. Automobile and farm equipment sales and service facilities
6. Residential occupancy required as part of the business
7. Flea markets
8. Grocery Stores
9. Golf Courses
10. Nursery
11. Hardware stores
12. Florists
13. Restaurants
14. Beauty shops and barbers
15. Service and gasoline sales
16. Signs and billboards
17. Accessory buildings and structures related to the above uses

SPECIAL EXCEPTION The following uses may be permitted as special exceptions in an C-1 district subject to all applicable conditions and after review by the Board of Zoning Appeals.
(Amended May 2013)

1. Mobile homes and Manufactured Homes on individual lots. (Amended May 2013)
2. Bed and Breakfast establishments and homesteads
3. Accessory Apartments
4. Self-storage facilities (mini-warehouses)

USES PROHIBITED In order to achieve the intent of the C-1 District, all used except those or their accessory uses specifically permitted or permitted upon approval as a special exception by the Board of Zoning Appeals are prohibited.

AREA REGULATIONS All uses within the C-1, General Commercial District, shall comply with the following yard requirements:

1. Front Yard – The minimum depth of the front yard shall be thirty (30) feet.
2. Rear Yard – The minimum depth of the rear yard shall be fifteen (15) feet, except for vehicular access at the rear of the lot, in which case a minimum rear setback of thirty (30) feet shall be provided.
3. Side Yard – The minimum depth of the side yard shall be fifteen (15) feet, except where vehicular access is provided at the rear of the lot, in which case a minimum rear setback of twenty (20) feet shall be provided.
4. Lot Area – No minimum land area shall be required in the C-1, General Commercial District, where public water and public sanitary sewer service is available. Where only public water is available, there shall be a minimum land area of thirty thousand (30,000) square feet, except that lots or record smaller than the required minimum, at the time of adoption of this resolution, may be utilized, provided that the required subsurface disposal system serving such lot is approved by the Smith County Environmentalist. Where no public water or public sewer service is available, there shall be minimum land area of three (3) acres.

MAXIMUM LOT COVERAGE On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty percent (40%) of the total area such lot or

parcel or the buildable area or said lot as defined by the front, side, and rear yard setbacks, whichever is less.

SECTION 4-5: HIGHWAY COMMERCIAL DISTRICT (C-2)

It is the intent of this district to establish areas in which the principal use of land is dependent on transient patronage and such are located along major collectors and arterials, as classified by the Smith County Major Road Plan. This district will provide areas that will be suitable for commercial activities that are generally larger in intensity and function and serve the regional area with various types of commercial services and is consistent with the overall purpose and intent of the Smith County Growth Plan and sections 6-58-101 through 6-58-115 Tennessee Code.

USES PERMITTED In order to achieve the intent of the C-2 district the following uses are permitted:

1. Any use permitted in C-1 General Commercial District
2. Hotels, motels
3. Shopping Centers, retail outlets
4. Farm Equipment Sales
5. Automobile Sales
6. Manufactured Home Sales
7. Boat Sales
8. Furniture, appliances, home equipment, home furnishings and garden supplies
9. Drug Stores and related business

SPECIAL EXCEPTION The following uses may be permitted as special exceptions in a C-2 district subject to all applicable conditions and after review by the Board of Zoning Appeals. (Amended May 2013)

1. Incidental home occupations
2. Bed and Breakfast establishments and homesteads

USES PROHIBITED In order to achieve the intent of the C-2, all uses except those or their accessory use specifically permitted or permitted upon approval as a special exception by the Board of Zoning Appeals are prohibited.

AREA REGULATIONS All uses with the C-2, Highway Commercial District, shall comply with the following yard requirements:

1. Front Yard – The minimum depth of the front yard shall be thirty (30) feet.
2. Rear Yard – The minimum depth of the side yard shall be fifteen (15) feet, except for vehicular access at the rear of the lot, in which case a minimum rear setback of thirty (30) feet shall be provided.
3. Side Yard – The minimum depth of the side yard shall be fifteen (15) feet, except where vehicular access is provided at the rear of the lot, in which case a minimum rear setback of twenty (20) feet shall be provided.
4. Lot Area – No minimum land area shall be required in the C-2, Highway Commercial District, where public water and public sanitary sewer service is available.

Where only public water is available. Where only public water is available, there shall be a minimum land area of thirty thousand (30,000) square feet, except that lots of record smaller than the required minimum, at the time of the adoption of this resolution, may be utilized, provided that the required subsurface disposal system serving such lot is approved by the Smith County Environmentalist.

Where no public water or public sewer service is available, there shall be minimum land area of three (3) acres.

MAXIMUM LOT COVERAGE On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty percent (40%) of the total area of such lot or parcel or the buildable area of said lot as defined by the front, side, and rear yard setbacks, whichever is less.

SECTION 4-6: GENERAL INDUSTRIAL DISTRICT (I-1)

It is the intent of this district to establish industrial areas in conjunction with open vacant areas that are suitable for future industrial development in a similar manner. It is the intent that permitted uses be conducted so that the noise, odor, dust, and glare of each operation are kept to a minimum. The industrial district is established to provide areas in which the principal use of land is for manufacturing and assembly plants, processing, storage, warehousing, wholesaling and distribution and as such contain the necessary infrastructure or have the potential to provide the necessary infrastructure to these industrial areas and is consistent with the overall purposes and intent of the Smith County Growth Plan and sections 6-58-101 through 6-58-115 Tennessee Code.

USES PERMITTED In order to achieve the intent of the I-1 district the ‘

Following uses are permitted:

1. Farming
2. Warehousing and distribution centers
3. Lots or yards for scrap or salvage operations or for processing, storage, display or sales of any scrap, salvage, or building materials.
4. Meat and dairy products manufacturing
5. Dying and finishing of textiles
6. Paper and allied products manufacturing
7. Tool and die business;
8. Rubber and miscellaneous plastic products manufacturing
9. The manufacturing of other products
10. Mining and Quarrying activities
11. Automobile wrecking, salvage and junk yards provided that all such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.

SPECIAL EXCEPTION The following uses may be permitted as special exceptions in an I-1 district to all applicable conditions and after review by the Board of Zoning Appeals. (Amended May 2013)

1. Solid Waste Landfills provided that:
 - a) The site is approved by the Tennessee Department of Public Health.
 - b) The total tract contains a minimum of one-hundred (100) acres with no more than 50 percent of said site being utilized for disposal. The remainder shall be utilized as a buffer.
 - c) The site is located on an arterial road as shown on the Zoning Map of Smith County, Tennessee or on a road built to State of Tennessee Highway specifications.
 - d) Trenches and areas for burial of refuse shall be located at least 1,000 feet from any existing residence, any residence under construction or, a platted subdivision at the time the landfill operation is begun.

- e) Existing trees shall be maintained within one hundred (100) feet of the adjoining property lines. Where the natural growth within 100 feet of the adjoining property line is inadequate to effectively screen the landfill site from the view from adjoining properties and roads, trees shall be planted for such screening purposes.
- 2. Freighting or trucking yard or terminal
- 3. Asphalt manufacture, refining or mixing plant
- 4. Slaughter house
- 5. Racetracks and/or Dragstrips provide that:
 - a) Off-Street parking requirements shall be determined by the Planning Commission during the preliminary review process.
 - b) The site location shall no be located within two thousand five Hundred (2,500) feet from any residential district.
- 6. Adult-oriented establishments

USES PROHIBITED Within the I-1 District, as shown on the Zoning map of Smith County, Tennessee, the following uses are prohibited.

- 1. Residential dwellings
- 2. Retail commercial sales or professional services
- 3. Any industry which causes injurious or obnoxious noise, vibrations, gas, fumes, odors, dust, fire hazards or other objectionable conditions.

AREA REGULATIONS All use within the I-1, General Industrial District, shall comply with the following yard requirements:

- 1. Front Yard – The minimum depth of the front yard shall be fifty (50) feet.
- 2. Rear Yard – The minimum depth of the front yard shall be thirty (30) feet.
- 3. Side Yard – The minimum depth of the side yard shall be twenty (20) feet.
- 4. Lot Area – No minimum land area shall be required in the I-1, General Industrial District, where public water and public sanitary sewer service is available. Where only public water is available, there shall be a minimum land area of forty-five thousand (45,000) square feet, except that lots of record smaller than the required minimum, at the time of the adoption of this resolution, may be utilized, provided that the required subsurface disposal system serving such lot is approved by the Smith County Environmentalist. Where no public water or public sewer is available, there shall be a minimum land area of three (3) acres.

MAXIMUM LOT COVERAGE: On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty percent (50%) of the total area such lot or parcel or the buildable area of lot as defined by the front, side, and rear yard setbacks, whichever is less.

HEIGHT REQUIREMENTS: No building shall exceed forty-five (45) feet in height.

SECTION 4-7: Agri-Tourism Overlay District

Agri-Tourism — also called agritainment, agricultural tourism, agrotourism or farm tourism — has several definitions. In 2003, members of the Tennessee Agritourism Initiative steering committee defined agritourism as An activity, enterprise or business that combines primary elements and characteristics of Tennessee agriculture and tourism and provides an experience for visitors that stimulates economic activity and impacts both farm and community income. Agritourism can also be defined as: Any activity carried out on a farm or ranch that allows members of the general public, for recreational,

entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

According to TCA §43-39-101, "Agritourism activity" means any activity carried out on a farm or ranch, eligible for greenbelt classification under title 67, chapter 5, part 10, that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities or natural activities and attractions. An activity is an "agritourism activity" whether or not a participant provides compensation in money or other valuable compensation to participate in the activity. "Agritourism activity" includes an activity involving any animal exhibition at an agricultural fair, regardless of the location of the fair;

Intent and Purpose: The purpose of the Agri-Tourism Overlay District (ATOD) is

1. To provide of the long range expansion of agritourism opportunities and uses of a parcel, that has historically been used as a traditional farm.
2. To identify and take advantage of the unique features of the site.
3. To be granted relief from the fixed regulations of conventional zones.
4. To encourage an innovative site plan.
5. To encourage the development of new tourism opportunities.
6. To obtain usable open space and recreational space.
7. To provide a compatible relationship between ATOD land uses and adjoining land uses.
8. To provide sensitive handling of traffic flow for efficiency of circulation and safety.

ATOD Eligibility Requirements

1. The parcel should have a unified design. The tract of land submitted for ATOD development must be developed as a single design entity, even though it may be developed in phases, or contains a wide variety of uses and activities otherwise not necessarily compatible with one another.
2. All land in the parcel submitted as the ATOD application must be initially under the control of the applicants.
3. The entire parcel shall be no less than 15 acres and the underlying zoning for said parcel must be A-1, R-C or C-1. The parcel may be composed of multiple plots of land owned by different individuals or entities as long as they are joined in a single application.
4. The process to place the ATOD designation on any property shall be the same as outlined in Article VIII, Section 9: APPLICATION FOR REZONING.

The Agri-Tourism Overlay District (ATOD) is an "Overlay" District.

1. In addition to the underlying zoning classifications, any ATOD zoning designation shall supplement other zoning districts ("Underlying Zoning District"). The uses allowed in the Underlying Zoning District as well as the uses allowed in the ATOD District are permitted uses within these areas. Until a site plan of has been approved, only the uses permitted in said Underling Zoning District shall be allowed.

2. In addition to the permitted uses set forth in the Permitted Uses Section in the underlying districts, the following are permitted uses in the ATOD District:

- Agriculture-related museums

- Agriculture-related festivals and fairs
 - Corn-maze enterprises
 - On-farm tours and demonstrations, Hayrides
 - On-farm retail markets (includes gift shop, both indoor and outdoor sales of gift and farm items)
 - On-farm vacations and Dude Ranches
 - On-farm petting areas and petting zoos
 - On-farm fee-fishing
 - On-farm horseback riding and stables
 - On-farm bed and breakfasts and retreats
 - On-farm restaurants and concessions
 - Wineries and vineyards
 - Zip Lines
 - War Games/Paint ball game areas in open fields
 - Game Preserves/ Hunting Lodges
 - Lookout towers, Overlooks, Picnic areas
 - Botanical Gardens, Butterfly and Hummingbird houses, Aviaries, Nature Preserves, Aquariums
 - Wedding chapel and reception, Banquet Halls
 - Seasonal and Holiday festivals such as Easter, Halloween, Thanksgiving, Christmas, New Years, Winter, Summer, Fall, Spring, etc
 - Cave Tours and spelunking
3. If a use is not permitted in the ATOD, then it shall be prohibited.

Application and Site Plan (REQUIRED)

1. A Site Plan required and must be approved by both the Smith County Regional Planning Commission and the Land Use Regulations Administrator before any ATOD request is presented to the Smith County Commission for consideration of applying the ATOD designation. The owner, lessee, or an authorized representative shall submit the site plan for review. The site plan shall contain the following elements:

- a. The name and address of the applicant and/or owner(s).
- b. The plan drawn to scale that includes the location, area, and dimensions of the proposed site as well as a legal description.
- c. The location and size of all buildings, improvements, facilities, and attractions.
- d. The location and dimensions of all water line and septic/sewer treatment facilities.
- e. The proposed use of buildings shown on the site plan.
- f. The location, width, and size of all driveways, walkways, and internal streets to include the overall Internal circulation plan (roadways and pedestrian walkways).
- g. The location and number of all off-street parking facilities.
- h. The location of park and recreation areas.
- i. A complete drainage plan with contour lines at five (5) feet.
- j. A location map showing the park site in relation to the existing public street pattern and indication of uses of property adjacent to the site and the location of all buildings within two hundred (200) feet of the site.
- k. A time schedule for building shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.

1. Certificate of ownership and dedication, certificate of accuracy from the surveyor or engineer, certificate for approval of subsurface sewer disposal systems from the county environmentalist and/or certificate of approval for sewer collection system from the applicable utility district, certificate of approval for waterlines from the applicable utility district, certificate of entrance and exit approval by the County Road Superintendent, certificate of approval of electric service from the applicable power system, and a certificate of approval from the secretary of the planning commission.

m. Such other architectural, engineering, and topographical data as may be required to permit the Smith County health department, the applicable utility district, the Land Use Regulations Administrator, and the Smith County Regional Planning Commission, to determine if the provision of these regulations are being complied with shall be submitted with the site plan.

SECTION 4-8: FLOOD HAZARD OVERLY DISTRICT (F-1)

It is the intent of this district to maintain eligibility for participation in the National Flood Insurance Program by promoting the public health, safety and general welfare of county residents and protecting human life and health by minimizing public and private losses due to flood conditions in specific areas by restricting or prohibiting uses which are vulnerable to water or erosion hazards, or which cause increases in erosion, flood heights, or velocities and controlling the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in filling, grading, dredging and other types of construction building. Thereby preventing the construction of flood barriers which will unnaturally divert flood waters or which may cause and/or increase flood hazards while concurrently minimizing expenditure of public funds for costly flood control projects. The Smith County Floodplain Zoning Ordinance adopted by Resolution on May 11, 1987 and amended by Resolution on July 10, 1989 shall be incorporated into this resolution. The areas of special flood hazard identified on the Smith County, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community – Panel Numbers 470283, 0001-0150: Effective Date: April 15, 1981 and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this Resolution. These areas shall be incorporated into the Smith County, Tennessee Regional Zoning Map.

RESOLUTION NO. 09-2010-003 COUNTY FLOOD DAMAGE PREVENTION RESOLUTION

A RESOLUTION ADOPTED FOR THE PURPOSE OF AMENDING THE SMITH COUNTY, TENNESSEE REGIONAL ZONING RESOLUTION REGULATING DEVELOPMENT WITHIN THE JURISDICTION OF SMITH COUNTY, TENNESSEE, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-101 through 13-7-115, Tennessee Code Annotated delegated the responsibility to the county legislative body to adopt regulations

designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **Smith** County, Tennessee, Mayor and **County Commission** do resolve as follows:

Section B. Findings of Fact

1. The **Smith** County, Tennessee, Mayor and its Legislative Body wish to **maintain** eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of **Smith** County, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

Section C. Statement of Purpose

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

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

Section D. Objectives

The objectives of this Resolution are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To **maintain** eligibility for participation in the NFIP.

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Resolution shall be interpreted as to give them the meaning they have in common usage and to give this Resolution its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Resolution, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

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

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

"Area of Special Flood Hazard" see **"Special Flood Hazard Area"**.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

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

"Building" see **"Structure"**.

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

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

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

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

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

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or resolution adopted by the community as a basis for that community's participation in the NFIP.

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

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

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

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

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

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

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

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

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

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

"Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the

shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

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

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

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

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

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

"Historic Structure" means any structure that is:

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

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

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

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

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

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

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Resolution, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Resolution and includes any subsequent improvements to such structure.

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

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

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

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

“Reasonably Safe from Flooding” means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

“Recreational Vehicle” means a vehicle which is:

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

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

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

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

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

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“State Coordinating Agency” the Tennessee Department of Economic and Community Development’s, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

“Structure” for purposes of this Resolution, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

"Variance" is a grant of relief from the requirements of this Resolution.

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

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ARTICLE III. GENERAL PROVISIONS

Section A. Application

This Resolution shall apply to all areas within the unincorporated area of **Smith** County, Tennessee.

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

The Areas of Special Flood Hazard identified on the **Smith** County, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47159C0020D, 47159C0039D, 47159C0040D, 47159C0045D, 47159C0065D, 47159C0105D, 47159C0109D, 47159C0110D, 47159C0115D, 47159C0117D, 47159C0119D, 47159C0120D, 47159C0126D, 47159C0127D, 47159C0128D, 47159C0129D, 47159C0132D, 47159C0134D, 47159C0135D, 47159C0136D, 47159C0137D, 47159C0138D, 47159C0139D, 47159C0141D, 47159C0143D, 47159C0145D, 47159C0155D, 47159C0165D,

47159C0170D, 47159C0185D, 47159C0200D, 47159C0202D, 47159C0204D, 47159C0205D, 47159C0206D, 47159C0207D, 47159C0208D, 47159C0209D, 47159C0215D, 47159C0216D, 47159C0217D, 47159C0218D, 47159C0219D, 47159C0230D, 47159C0235D, 47159C0240D, 47159C0245D, 47159C0260D, 47159C0280D, 47159C0285D, 47159C0305D dated SEPTEMBER 29, 2010, along with all supporting technical data, are adopted by reference and declared to be a part of this Resolution.

Section C. Requirement for Development Permit

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

Section D. Compliance

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

Section E. Abrogation and Greater Restrictions

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

Section F. Interpretation

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

Section G. Warning and Disclaimer of Liability

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

Section H. Penalties for Violation

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this resolution or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a

separate offense. Nothing herein contained shall prevent **Smith** County, Tennessee from taking such other lawful actions to prevent or remedy any violation.

ARTICLE IV. ADMINISTRATION

Section A. Designation of Resolution Administrator

The **Land Use Administrator/Planning Director** is hereby appointed as the Administrator to implement the provisions of this Resolution.

Section B. Permit Procedures

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

1. Application stage
 - a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Resolution.
 - b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Resolution.
 - c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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

Section C. Duties and Responsibilities of the Administrator

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

1. Review all development permits to assure that the permit requirements of this Resolution have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including 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 FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.

8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. 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), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Resolution.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Smith County, Tennessee FIRM meet the requirements of this Resolution.
11. Maintain all records pertaining to the provisions of this Resolution in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Resolution shall be maintained in a separate file or marked for expedited retrieval within combined files.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General Standards

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Resolution, shall meet the requirements of "new construction" as contained in this Resolution;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Resolution, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

Section B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid

foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

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

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;

- 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
 - c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.
4. Standards for Manufactured Homes and Recreational Vehicles
- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
 - c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
 - d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - 1) Be on the site for fewer than 180 consecutive days;
 - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - 3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

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

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

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for **Smith** County, Tennessee and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

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

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

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

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

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and

anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within **Smith** County, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

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

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

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.
2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Resolution and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

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

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

Section H. Standards for Unmapped Streams

Located within **Smith** County, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.

ARTICLE VI. VARIANCE PROCEDURES

Section A. Regional Board of Zoning Appeals

1. Authority

The **Smith** County, Tennessee Regional Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Resolution.

2. Procedure

Meetings of the Regional Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Regional Board of Zoning Appeals shall be open to the public. The Regional Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Regional Board of Zoning Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

An appeal to the Regional Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Resolution. Such appeal shall be taken by filing with the Regional Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of **\$50.00** dollars for the cost of publishing a notice of such

hearings shall be paid by the appellant. The Administrator shall transmit to the Regional Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Regional Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than **30** days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Regional Board of Zoning Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Resolution.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The **Smith** County, Tennessee Regional Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Resolution.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Resolution to preserve the historic character and design of the structure.
- 3) In passing upon such applications, the Regional Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Resolution, and:
 - a) The danger that materials may be swept onto other property to the injury of others;
 - b) The danger to life and property due to flooding or erosion;
 - c) The susceptibility of the proposed facility and its contents to flood damage;
 - d) The importance of the services provided by the proposed facility to the community;

- e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- 4) Upon consideration of the factors listed above, and the purposes of this Resolution, the Regional Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Resolution.
 - 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section B. Conditions for Variances

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
- 2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Resolutions.
- 3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
- 4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

ARTICLE VII. LEGAL STATUS PROVISIONS

Section A. Conflict with Other Resolutions

In case of conflict between this Resolution or any part thereof, and the whole or part of any existing or future Resolution of **Smith** County, Tennessee, the most restrictive shall in all cases apply.

Section B. Severability

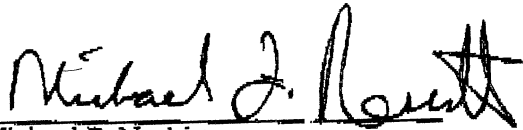
If any section, clause, provision, or portion of this Resolution shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Resolution which is not of itself invalid or unconstitutional.


Section C. Effective Date

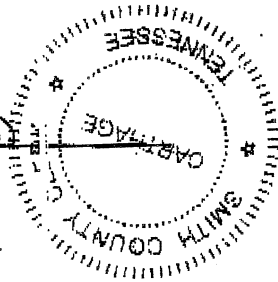
This Resolution shall become effective immediately after its passage, the public welfare demanding it.

Approved and adopted by the **Smith** County, Tennessee, Mayor and Legislative Body.

September 13, 2010
Date


Michael F. Nesbitt
Mayor of **Smith** County, Tennessee

Attest:

Clifa Norvis
Smith County Clerk



September 13, 2010
Date of Public Hearing

August 26, 2010
Date of Publication of
Caption and Summary

ARTICLE VII: EXCEPTIONS AND MODIFICATIONS

SECTION 1: SCOPE

ARTICLE VII, of this resolution, is devoted to providing for the necessary exceptions and modifications to the supplementary and specific zoning district provisions.

SECTION 2: NONCONFORMING USES

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

- A. An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same or higher classification provided, however, that establishment of another nonconforming use of the same or higher classification shall be subject to written approval of the Board of Zoning Appeals and subject to such conditions as the Board may require in order to protect the area.
- B. Any nonconforming building or nonconforming use which is damaged by fire, flood, wind, or other act of God, may be reconstructed and use as before, if it be done within one (1) year of such damage. Any nonconforming use can be expanded and additional facilities can be constructed for such activities that were previously in compliance, as long as there is enough space for such expansion as to avoid becoming a nuisance to the neighbors. The Smith County Land Use Regulations Administrator shall make the determination if the expansion will or will not become a nuisance or affect the public safety. The owner can appeal the decision of the Land Use Regulations Administrator and seek relief from the Smith County Board of Zoning Appeals. The Board of Zoning Appeals can add such conditions in order to protect the area. All of these activities must be undertaken on land that was in use at the time of the effective date of this zoning ordinance. Acquisition of additional land for the nonconforming activity is not allowed.
- C. When a nonconforming use of any structure or land has been discontinued for a period of one (1) year, it shall not be reestablished or changed to any use not in conformity with the provision of this resolution. Immediately upon the removal of a nonconforming mobile home or discontinuance of a nonconforming mobile home park, the nonconformity of such structure and use of land shall lapse. This provision shall not apply when the structural condition of a mobile home is such that replacement of another mobile home alleviates an unsafe an unsanitary living environment, as certified by the Land Use Regulations Administrator.

SECTION 3: LOTS OF RECORD

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

- A. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this resolution does not own sufficient land to enable him to conform to the yard or other requirements of this resolution, an application may be submitted to the Board of Zoning Appeals for a variance from

the terms of this resolution. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the Board of Zoning Appeals as possible.

- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this resolution, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

SECTION 4: EXCEPTIONS TO SETBACK REQUIREMENTS

The front setback requirements of this resolution for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

SECTION 5: ABSOLUTE MINIMUM LOT SIZE

In no case shall the Smith County Land Use Regulations Administrator or the Smith County Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building line is less than one hundred (100) feet and/or whose total lot area is less than ten thousand (10,000) square feet.

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

SECTION 1: ADMINISTRATION OF THE RESOLUTION

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

SECTION 2: THE ENFORCEMENT OFFICER

The provision of this resolution shall be administered and enforced by the Smith County Land Use Regulations Administrator. The Land Use Regulations Administrator shall administer and enforce this resolution, in addition, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- C. Maintain and keep current zoning maps and records of amendments thereto.
- D. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this resolution.
- E. Receive, file and forward to the planning commission all matters on which the planning commission is required to act under this resolution.
- F. Conduct inspections as required in this resolution and such other inspections as are necessary to insure compliance with the various other general provisions of this resolution.

SECTION 3: ZONING COMPLIANCE PERMIT (BUILDING PERMIT)

It shall be unlawful to commence the construction of any building or structure for the purpose or residential, commercial or industrial use without a zoning compliance (building permit).
[Amended July 2005]

No Building Permit shall be issued by the Land Use Regulations Administrator, 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, special exception, or variance as provided by this resolution.

- A. APPLICATION FOR A BUILDING PERMIT
Application for a Building Permit shall be made in writing to the Land Use Regulations Administrator 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 Land Use Regulations Administrator may require an applicant to submit the 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 complete before the Land Use Regulations Administrator is required to consider the application. This application will provide sufficient information to allow the Land Use Regulations Administrator to evaluate for compliance with the provisions set forth in this resolution.

B. SITE PLAN REQUIREMENTS FOR TWO-FAMILY DETACHED HOUSES, COMMERCIAL BUILDINGS AND INDUSTRIAL BUILDINGS

This procedure is to be utilized for all Two-Family Detached Houses, Commercial buildings and Industrial buildings. Unless, otherwise, specified, the reviewing agency shall be the Smith County Regional Planning Commission. Proposals for mobile home parks shall follow separate provisions outlined elsewhere in this resolution, but such proposals shall also be reviewed by the planning commission.

The following information shall be included in the site plan:

1. General Location Sketch Map at a Scale Not Smaller Than 1" = 100'
 - a. The approximate boundaries of the site.
 - b. External (public access streets or roads in relation to the site).
 - c. Surrounding development (i.e., general residential, commercial, and industrial areas) within the general vicinity of the site.
 - d. Any public water and sewer systems in relation to site.

2. Site Plan Drawn to a Scale No Smaller than 1" = 100'
 - a. The actual shape, location, and dimensions of the lot.
 - b. The shape, size, and location of all buildings and existing structures.

 - c. 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.
 - d. Topographic features, both existing and proposed, with contours at a vertical, interval no greater than five (5) feet.
 - e. Location of all driveways and entrances existing and proposed.
 - f. Location of all accessory off-street parking areas to include a plan showing design and layout of such parking facilities including internal streets. (Dimensions shall be shown.)
 - g. Location of all accessory off-street loading berths.
 - h. Location of open space.
 - i. Proposed ground coverage of each land use on the lot, including building size, parking and drives and amount of open and landscaped areas.
 - j. Position of fences and walls to be utilized for screening (materials specified).
 - k. Position of screen planting (type of planting specified).
 - l. Proposed means of surface drainage, including all drainage ways and facilities.

- m. Location of all easements and right-of-way.
 - n. Location of areas subject to flooding.
 - o. Location and size of all utilities including all fire hydrants and any area reserved for subsurface sewage disposal.
 - p. Location, type, and size of proposed signs.
3. The Planning Commission as the Reviewing Body May:
- a. Recommend approval of the plan as submitted to the Land Use Administrator.
 - b. Recommend disapproval of the plan.
 - c. Recommend approval of the plan with conditions or recommendations for alterations.

If no “actual construction” has begun in the development within one (1) year from the date of approval of the site plan, said approval of the site plan shall lapse and be of no further effect.

C. Fee [Amended September 2010]

The Smith 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 Land Use Regulations Administrator. 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.

The permit fee shall be waived in cases where the owner of a structure applies for a building permit with one year of being damaged/destroyed by a fire or federally declared disaster. For federally declared disasters, the owner must provide proof that the structure was damaged by the disaster by submitting a FEMA aid number.

D. Issuance of Permit

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

E. Construction Progress

Any Building Permit issued becomes invalid if work authorized is not commenced within six (6) months of the date of issuance of the permit and completed within twenty-four (24) months. It will be the responsibility of the applicant to notify the Land Use Regulations Administrator when construction begins and is completed.

SECTION 4: TEMPORARY USE PERMITS

It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the County Land Use Regulations. Application for a Temporary Use Permit shall be made in writing to the Land Use Regulations Administrator on the form provided for that purpose.

SECTION 5: COUNTY BOARD OF ZONING APPEALS

A Smith County Board of Zoning Appeals (hereafter referred to as the Board) is hereby established in accordance with 13-7-106 through 13-7-109, of the Tennessee Code, the Smith County Board of Zoning Appeals shall consist of five (5) members. The County Commission shall appoint members and may fix their compensation and their terms, which shall be so arranged that the term of one (1) member will expire each year. The County Commission may remove any member upon cause. Vacancies shall be filled for an unexpired term in the same manner as the case of original appointment.

A. Procedure

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such times as the Board may determine. Such chairman, or in his absence, the citing chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon. The records and minutes shall be filed in the office of the Land Use Regulations Administrator and shall be a public record.

B. Appeals to the Board

An appeal to the Smith County Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by any decision of the Land Use Regulations Administrator based in whole or in part upon the provisions of this resolution. Such appeal specifying the grounds thereof. The Land Use Regulations Administrator shall transmit to the Board all papers constituting the record upon which the action appeals was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

C. Powers of the Board

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination or refusal made by the Land Use Regulations Administrator or other administrative official in the carrying out of enforcement of any provision of this resolution.

2. Special Exceptions

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

3. Variances

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

D. Rules and Regulations of the Board

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

1. The presence of three (3) members of the Board shall constitute a quorum and the concurring vote of at least three (3) members of the Board shall be necessary to deny or grant any application before the Board.
2. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Smith County at least (15) 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 a public hearing before the Board, the Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.
3. The Board may call upon any other office or agency of the 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 Regional Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing.
5. Any officer, agency, or department of the county or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by State law.
6. Any decision made by the Board on a special exception shall indicate the specific section of this 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 agenda thereof, except that appeals may be advanced for hearing by order of the Board, good, and sufficient cause being shown.
8. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other. The public hearing shall be conducted according to the rules of procedure that the board has established.

E. Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Land Use Regulations Administrator certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause 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 the Board or by a court of competent

jurisdiction on application, on notice to the Land Use Regulations Administrator, and on due cause shown.

F. Liability of Board Members, Land Use Regulations Administrator and Employees

Any board member, Land Use Regulations Administrator, or other employee charged with the enforcement of this resolution, acting for Smith County within the scope of the responsibilities assigned him under this resolution shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the county of any damage that may occur to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any board member, Land Use Regulations Administrator, 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.

G. Right of Entry Upon Land

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

H. Rehearing

1. No rehearing of the decision by the Board shall be had 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, be 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 hearing 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 article.

SECTION 6: VARIANCES

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

A. Application

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

B. Hearing

Upon receipt of an application the Board shall hold a hearing to decide whether a variance to the resolution provisions is, in fact, necessary to relieve unnecessary hardship. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

C. Standards for Variances

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

1. The particular physical surroundings, shape, and topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this resolution were carried out must be stated.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
3. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this resolution to other land structures, or buildings in the same district.
4. Financial returns only shall not be considered as a basis for granting a variance.
5. The variance is the minimum variance that will relieve such difficulties of hardship and thereby make possible the reasonable use of the land, building, or structure.
6. The variance will not authorize activities otherwise excluded from the particular district in which requested.
7. That the granting of the variance will not be determined 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 resolution.
8. 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.
9. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this resolution.

D. Restrictions and Variances

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

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

3. 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 to 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.

SECTION 7: PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS

The following procedure is established to provide for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether is required by this resolution or whether a review is requested by the Land Use Regulations Administrator to determine whether a proposed use is potentially noxious, dangerous, or offensive.

A. Application

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended uses of the site, the names of the property owners, existing land uses of all adjacent properties and any other material pertinent to the request which the Board may require.

B. General Requirements

A special exception shall be granted provided the Board finds that the activity:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
2. Will no adversely affect other property in the area in which it is located.
3. Is within the provision of "Special Exceptions" as set forth in this resolution.
4. Conforms to all applicable provisions of this resolution for the district in which it is to be located and is necessary for public convenience at that location.

C. Specific Standards for Residential Activities

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

1. Special Conditions for Multi-Family Dwelling and Mobile

Home Park Activities and Manufactured Home Park Activities (Amended May 2013)

In addition to the standards contained elsewhere in this resolution for these type developments, the Board of Appeals shall specifically find that there will be no adverse impact upon adjoining properties or the neighborhood in which such use is proposed. In making this finding, the Board shall consider the effect upon traffic congestion, overcrowding of schools, availability of necessary public utilities and character of adjoining structures, and suitability of the site for the use and such other factors as the Board may deem necessary.

D. Specific Standards for Community Facility Activities

1. Special Conditions for Adult-Oriented Establishments
 Within the industrial districts adult-oriented establishment, as defined by this Resolution, shall adhere to the following conditions:
 An application shall be filed with the Building Commissioner Containing the following information:
 1. The location of the intended site, listing of all adjacent property owner names, and the particular use of the facility.
 2. The business, occupation, or employment of the Applicant for an adult-oriented establishment for the last five (5) years immediately preceding the date of the application.
 3. If the applicant is a corporation, the applicant shall specify the name, address, and telephone number of the corporation, the date and the state of the incorporation, the name and address of the registered agent for service of process for the corporation, officers and directors of the corporation, and any person(s) holding fifty percent (50%) or more stock of the corporation.
 4. If the applicant is a partnership, the applicant shall specify the name and address of all general partners of the partnership. If the partnership is a limited partnership, the applicant shall specify the name and address of all general partners who have a controlling interest in the partnership.
 5. The establishment will not be located within three-thousand (3,000) feet, measured from property line to property line, of a school or educational facility, church or religious facility, park or recreational facility, a non-profit educational or scientific facility, a public or private cemetery, or a licensed daycare.
 6. The establishment will not be located within one- thousand (1,000) feet from a property line or district boundary, as interpreted by this Resolution, of a residential district.
 7. The establishment will not be located within one- thousand (1,000) feet measured from property line to property line, of another adult-oriented business establishment.
 8. The applicant shall not have been convicted or entered a plea to a specified crime as defined by T.C.A. 7-51-1102 (24).
 9. The application will be referred to the Board of Zoning Appeals within ten (10) days after the Building Commissioner receives the results of the investigation conducted by the Smith County Sheriff's Department.

SECTION 8: AMENDMENTS TO THE RESOLUTION

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

No amendment to this resolution shall become effective unless it is first submitted to the Smith County Regional Planning Commission for review and recommendation. The planning commission shall have sixty (60) days within to submit its recommendation to the county commission. If the planning commission disapproves the amendment, it shall require the favorable vote of a majority of the county commission to become effective. If the planning

commission fails to submit a report within the sixty (60) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the planning commission shall be made, unless such change or departure be first submitted to planning commission and approved by it, or, if disapproved, received the favorable vote of a majority of the entire membership of the county commission. All land use decisions shall be consistent with the provisions and intent of the Smith County Growth Plan and TCA 6-58-101 through 6-58-115.

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

SECTION 9: APPLICATION FOR REZONING

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

1. The name and address of the owner and/or owners of the subject property, and the written certification of the authorized agent.
2. A written legal description of the subject property including the Smith County Tax Plat number and acreage.
3. A description of the proposed zone change, modification or repeal together with written justifications for the requested zone change.
4. The names and address of the adjacent property owners including those property owners across streets, roads, highways, and/or railways, and waterways which border the applicant's property.
5. All property proposed for rezoning shall have all corners clearly marked with stakes and flagged.

SECTION 10: PENALTIES

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

SECTION 11: REMEDIES

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used, in violation of this resolution, the Land Use Regulations Administrator or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

SECTION 12: VALIDITY

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

SECTION 13: INTERPRETATION

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

SECTION 14: EFFECTIVE DATE

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

We certify that the Smith County Regional Commission on November 25, 2002 approved this resolution and also at the request of the Smith County Commission did make changes to it on February 24, 2003 as outlined in the official minutes of the Smith County Regional Planning Commission.

Michael F. Nesbitt

Glenn Bettis

Secretary,
Smith County Regional Planning
Commission

Chairman,
Smith County Regional Planning
Commission

APPROVED BY the Smith County Commission

Date Public Hearing held: April 21, 2003

Michael F. Nesbitt

July 14, 2003

Chairman,
Smith County Commission

Date

ATTEST:

County Court Clerk