

ARTICLE XI

ADMINISTRATION AND ENFORCEMENT

SECTION

11-1 ZONING ADMINISTRATION

11-1.1 Zoning Administrator

11-2 ENFORCEMENT OF THE RESOLUTION

11-2.1 Administration and Enforcement Procedure

11-2.2 Right of Appeal

11-2.3 Penalties

11-3 PERMITS REQUIRED

11-3.1 General Application Requirements

11-3.2 Residential Plans Required

11-3.3 Site Plan Requirements

11-4 CERTIFICATE OF COMPLINACE/OCCUPANCY

11-5 BOARD OF ZONING APPEALS

11-5.1 Creation and Appointment

11-5.2 Members

11-5.3 Procedure and Rules

11-5.4 Appeals to the Board

11-5.5 Powers of the Board

11-5.6 Stay of Proceedings

11-5.7 Right of Entry Upon Land

11-5.8 Rehearing's

11-5.9 Court Review

11-6 VARIANCE PROCEDURE

- 11-6.1 Petition for Appeal or Variance**
- 11-6.2 Filing of Notice of Appeal**
- 11-6.3 Filing a Variance Petition**
- 11-6.4 Notice and Hearing:**
- 11-6.5 Standards for Granting an Appeal:**
- 11-6.6 Standards for Granting a Variance:**
- 11-6.7 Action by the Board of Appeals**
- 11-6.8 Effect of Variance, Reversal or Modification of Administrative Decision**
- 11-6.9 Rehearing**
- 11-6.10 Appeal from Board of Appeals**

11-7 SPECIAL EXCEPTION PROCEDURE

- 11-7.1 Purpose**
- 11-7.2 Application**
- 11-7.3 Withdrawal or Amendment of Special Use Permit Application**
- 11-7.4 Hearing, Findings, Recommendation and Decision**
- 11-7.5 Effect of Approval or Denial of Permit**
- 11-7.6 Greater Restrictions**
- 11-7.7 Permit Perpetually Binding**
- 11-7.8 Compliance with Approved Permit**
- 11-7.9 Submission of Site Plans**
- 11-7.10 Minor Modifications**
- 11-7.11 Amendment to an Approved Special Use Permit**
- 11-7.12 Violation of Permit Conditions**
- 11-7.13 Expiration or Discontinuance**

11-7.14 Appeals

11-7.15 Recognition of Previously Approved Special Exceptions

11-8 AMENDMENTS TO THE ZONING TEXT

11-9 AMENDMENTS TO THE ZONING ATLAS (MAP)

11-9.1 General

11-9.2. PROCEDURE FOR MAP AMENDMENTS

11-10 LIABILITY OF BOARD MEMBER AND EMPLOYEES

11-11 REMEDIES

11-12 SEPARABILITY

11-13 INTERPRETATION

11-13.1 Purpose

11-13.2 Authority

11-13.3 Procedure for Interpretations

11-13.4 STANDARDS FOR INTERPRETATIONS

11-14 EFFECTIVE DATE

ARTICLE XI

ADMINISTRATION AND ENFORCEMENT

11-1 ZONING ADMINISTRATION

11-1.1 Zoning Administrator

Primary responsibility for administering and enforcing this Resolution may be assigned to one (1) or more individuals by the Chief Administrative Officer. The person or persons to whom these functions are assigned shall be referred to in this Resolution as the "Zoning Administrator". The term "Staff" or "Planning Staff" is sometimes used interchangeably with the term "Zoning Administrator" hereafter referred to as the Administrator. Any function or responsibility assigned by this Resolution to the Administrator may be delegated by such person to another employee or agent acting under the Administrator's control or at his direction, unless such delegation is prohibited.

The Administrator shall enforce, conduct reviews, ensure zoning compliance, and manage the development approval procedures set forth in this article for Robertson County.

A building permit and a certificate of occupancy are required for uses permitted by right, under prescribed conditions, or subject to an approved conditional district or special use permit, and all uses and structures accessory thereto.

A certificate of occupancy is required for changes in the use of property. Zoning compliance, under these regulations, is required for the issuance of building permits, certificates of occupancy, sign permits, and zoning use permits.

11-2 ENFORCEMENT OF THE RESOLUTION

11-2.1 Administration and Enforcement Procedure

If an application for a Building Permit or Certificate of Occupancy is denied because of non-compliance with these regulations, the Administrator shall provide notification of the denial and of the reasons therefore.

11-2.2 Right of Appeal

If a request for a zoning compliance permit is disapproved or if a ruling of the Administrator is questioned, any aggrieved party may appeal such ruling to the Robertson County Board of Zoning Appeals as provided in **Section 11-5.4 (Appeals to the Board)**. An appeal to the Board of Appeals, lawfully and completely filed within 30 working days of the date of the decision, shall stay enforcement action and penalties until a hearing has been held and a decision rendered by the Board of Appeals.

11-2.3 Penalties

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Resolution, an action for injunction, mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by the Administrator or other authority designated by the Board of County Commissioners as enforcement agent(s) for this Resolution. Penalties and remedies are as follows:

A. Criminal

Any person, firm or corporation convicted of violating the provisions of this Resolution shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount as specified in the **Tennessee Code**. Each day of violation shall be considered a separate offense, provided that

the violation of this Resolution is not corrected within thirty (30) days after notice of said violation is given.

B. Equitable Remedy

The Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this Resolution. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this Resolution.

C. Injunction

Enforcement of the provisions of this Resolution may also be achieved by injunction. When a violation occurs, the Administrator may, either before or after the institution of other authorized action, apply to the appropriate Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

D. Orders of Abatement

In addition to an injunction, the Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

1. Buildings or other structures on the property be closed, demolished, or removed;
2. Fixtures, furniture or other moveable property are temporarily moved or removed entirely;
3. Improvements, alterations, modifications or repairs be made; or
4. Any other action that is taken necessary to bring the property into compliance with this Resolution.

E. Execution of Court Decisions

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic or material man's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the appropriate court officer in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

F. Stop-Work Order Issuance and Revocation of Permits

Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Resolution, the Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

The Administrator may revoke any permit (e.g., building, certificate of occupancy) by written notification to the permit holder when violations of this Resolution have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Resolution, or a permit has been mistakenly issued in violation of this Resolution.

G. Civil Penalty

In addition to the other remedies cited in this Resolution for the enforcement of its provisions the regulations and standards of this Resolution may be enforced through the issuance of civil penalties by the Administrator. Subsequent citations for the same violation may be issued by the Administrator if the offender does not pay the citation (except as otherwise provided in a warning situation) after it has been issued unless the offender has sought an appeal to the decision of the Administrator through the Board of Appeals. Once the ten (10) day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Administrator.

11-3 PERMITS REQUIRED

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including expansion, including accessory structures, to use a building or structure, or to commence the filling of land without a permit therefore, issued by the Building Commissioner.

No Building Permit shall be issued by the Building Commissioner except in conformity with the provisions of this resolution, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this resolution.

11-3.1 General Application Requirements

A. Application for a Building Permit

1. Submission: All applications for permits under this Resolution shall be submitted by the ***owner of the property or his authorized agent***, unless otherwise specified. The Building Commissioner may require reasonable proof of agency from any person submitting an application as agent.
2. Form of Submission: An application for any permit under this Resolution shall be submitted in such form, number of copies, and format as required by the Building Commissioner issuing such permit, together with such fees as required.
3. Waiver of Submission Requirements: The Building Commissioner may waive submission of certain required information when such information is not necessary to review the application.
4. Processing: All applications for permits shall be submitted, reviewed, and processed in accordance with the requirements of this Resolution. The Building Commissioner may refuse to process an incomplete application.

B. Fee Schedule

The Robertson County Board of County Commissioners shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be available in the Office of the Building Commissioner. Only the County Commission may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

C. Flood Plain Development Permit

A Flood Plain Development Permit shall be obtained in conformance with the provisions of this Resolution prior to the commencement of any development activities in any identified flood hazard area. Where otherwise required, a grading permit or building permit may serve as the flood plain development permit. Development activities shall include, but not be limited to: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

1. Lowest Floor Elevation: Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.

2. Floodproofing Elevation: Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
3. Base Flood Elevation Not Provided: Where base flood elevation data are not provided, the application for a development permit must show construction of the lowest floor at least two (2) feet above the highest adjacent grade.
4. Watercourse Alteration or Relocation: Where any watercourse will be altered or relocated as a result of proposed development in a flood hazard area, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; a report certified by a registered professional engineer on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects on properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.
5. Certificate Required: A floor elevation (*Elevation Certificate*) or floodproofing certificate is required in accordance with **Section 7-2.3 C**, Certificate of Floor Elevation/Floodproofing. When a nonresidential structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria.

D. Grading Permit

(RESERVED FOR FUTURE USE)

E. Temporary Permits

1. Purpose: The purpose of this permit is to authorize a specific use for a defined period of time as authorized in this Resolution and to coordinate health, traffic, and other inspections necessary to the safe and healthful operation of the use.
2. Application: Application for a temporary event permit shall be made to the Zoning Administrator in the time prescribed for the specific use by this Resolution.
3. Permit Required: A temporary permit shall be obtained for nonpermanent facilities and activities with a duration prescribed by the specific use in this Resolution.
4. Requirements for Permit Issuance: A temporary event permit shall not be issued until evidence is shown that the following requirements have been or will be complied with:
 - a. An approved parking plan for the use that does not conflict with any permanent use that may be located on the property.
 - b. Written authorization from the property owner or his agent for the event to take place.

- c. An approved plan for the hours of operation that meets all requirements of this resolution.
- d. Licenses and/or permits required by other agencies have been obtained prior to the issuance of the temporary event permit.
- e. Adequate arrangements shall be demonstrated for collection of sanitary sewage and solid waste.

F. 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 and any other resolutions adopted by the *Board of County Commissioners*, the Building Commissioner shall issue a Building Permit for such excavation or construction. If an application for a Building permit is not approved, the Building Commissioner shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed a waiving of any provisions of this Resolution or any other resolution.

G. Permit Expiration

Any Building Permit issued becomes invalid if work authorized is not commenced within six (6) months of the date of issuance or if the work authorized by the permit is suspended or discontinued for a period of one (1) year.

11-3.2 Residential Plans Required

A. Site Plan Requirements

Site plans containing the information required for the particular use by his section must be submitted to the Building Commissioner at the time of an application for a building permit. It is specifically anticipated that the approval process for one and two-family detached houses and individual mobile homes shall be administratively approved by the Building Commissioner. All other uses shall only be approved in the manner set forth in **Section 11-3.3**, below.

B. Site Plans Required for One and Two-Family Detached Houses and Individual Mobile Homes

- 1. The actual shape, location, and dimensions of the lot to be built upon.
- 2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.

3. The existing and intended use of all such buildings or other structures, upon it, including the number of dwelling units the building is intended to accommodate.
4. The size and location of all yards and open areas required by this resolution.
5. The dimension and location of all public water and sewer lines from which the property is to be served.
6. The location and approximate dimension of all points of access to a public street or road.
7. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this resolution are being observed.
8. Where subsoil sewage disposal is anticipated, certification from the county health department approving the lot for such use.

11-3.3 Site Plan Requirements

The purpose of this provision is to prevent undesirable site development which would unduly create inadequate circulation and unnecessary congestion: to obtain maximum convenience, safety, economy, and identify in relation to adjacent sites: and to provide maximum flexibility for expansion, change in use, and adapting to individual needs. Thus, applicants for building permits must submit fifteen (15) copies of the site drawings drawn to scale and prepared by a licensed surveyor, civil engineer, architect or landscape architect containing the following information:

1. General Location Sketch Map at a scale not smaller than 1"=2,000', showing:
 - 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 at a scale no smaller than 1"=100' showing:
 - a. The actual lot drawn with all dimensions along with the dimension of all rights-of-ways and easements adjacent to the property.
 - b. The shape, size, and location of all existing buildings or other structures on the lot.

- 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. Site topographic features showing both existing and proposed contours at a vertical interval, no greater than two (2) feet.
 - e. Location of all driveways and entrances.
 - f. Location of all accessory off-street parking areas provided to serve use, all spaces shall be delineated on the plan showing the dimensions of all spaces along with traffic aisles.
 - g. Any required off-street loading areas with adequate space to access into and out of the berths.
 - h. Landscaping plan for the site showing all required landscaping and for Planned Unit Developments the existing trees on the site.
 - i. Plans for the buildings to be constructed showing building elevations, exterior materials and building heights.
 - j. Proposed ground coverage recap of the site including floor area of the building, square footage of all impervious areas and amount of open space provided.
 - k. Location of all areas designated for solid waste along with a sketch of the proposed screening for the area.
 - l. Location and dimensions of required buffer along with a cross section of buffer with the type of planting specified. In the advent that a fence or wall is proposed in lieu of a buffer the location of the fence shall be shown along with a sketch of the proposed fence or wall.
 - m. A site grading and drainage plan showing all on site structures, discharge points and the effect on adjacent properties and drainage ways. The location of any area subject to flooding mapped or unmapped shall be shown on the plan.
 - n. Site utility plan to serve the proposed site.
 - o. Show location, type, and size of proposed signs.
3. Site Plan Exempt from Planning Commission Approval Requirements

Building additions and accessory buildings 500 square feet or less, building additions 1,000 square feet or less, that do not

increase the capacity of the principal use and "Home Occupation" plans are exempt from submitting a complete site plan as required in **Section 11-3.3, 2** of this Resolution. In lieu of a site plan the owner or developer shall submit to the Planning Commission Staff a site sketch plan containing the following information.

The following information is required on a site sketch plan:

- a. General location map (no scale required).
- b. Map of the site drawn by a licensed surveyor or engineer showing existing or proposed plan-o-metrics in relation to property lines.
- c. Proposed location of the addition or accessory structure, drawn at a scale no smaller than 1"=100' showing property lines and the outline of the existing building in this area.
- d. A drainage plan will be required for any addition or accessory structure that disturbs soil structures or natural drainage areas.
- e. Location and size of any public utilities in area of construction.
- f. On sites located adjacent to residential areas a plan for screening and buffering will be required for commercial structures.
- g. A revised ground coverage recap of the site, if existing pervious area is disturbed.
- h. A review fee based on the Robertson County Planning and Zoning Fee Schedule will be assessed at the time plans are submitted.

4. The planning commission as reviewing body may:

- a. Recommend approval of the plan as submitted to the building inspector.
- 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 two (2) years from the date of approval of the site plan, said approval of the site plan shall lapse and be of no further effect.

5. Site Development Agreement Required:

All developments that require site plan approval by the Robertson County Regional Planning Commission shall execute a "Site Development Agreement" between the developer and the county prior to a building permit being issued. A copy of the required agreement is part of this resolution and is provided in *Appendix A* of this resolution

11-4 CERTIFICATE OF COMPLINACE/OCCUPANCY

No Certificate of Compliance/Occupancy shall be issued for any building, structure, or development activity not in compliance with the provisions of this Resolution. A Certificate of Compliance shall be issued after completion of construction or alterations of such building, structure, or development activity after:

- A. Inspection by the Zoning Administrator to determine compliance with all applicable provisions of this Resolution; and
- B. Compliance with all applicable provisions of related health, building, and fire codes.

11-5 BOARD OF ZONING APPEALS

11-5.1 Creation and Appointment

County Board of Zoning Appeals is hereby established in accordance with ***Section 13-7-106 through 13-7-109, Tennessee Code***. The County Board of Zoning Appeals shall consist of five (5) members and have jurisdiction within the unincorporated area of Robertson County.

11-5.2 Members

Members of the Board shall serve for five (5) year terms or until their respective successors are appointed and qualified, 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

All members of the Board shall serve with such compensation as may be fixed by the County Commission and may be removed from membership on the Board for continued absence or just causes. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision. Vacancies of said Board shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

11-5.3 Procedure and Rules

All meetings of the Board of Appeals shall be held at an established location and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of business before the Board shall be recorded in the minutes, indicating the testimony before the Board therefore, all of which shall become a part of the public record.

No discussion or action on a case shall be taken unless a quorum of the membership is present and voting. The Board shall operate under a set of rules of procedure adopted by the membership.

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.

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.

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.

Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board, good, and sufficient cause being shown.

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.

Every application for a hearing before the Board of Zoning appeals shall pay a fee as required in the Robertson County Planning and Zoning Fee Schedule to assist in covering the cost of review, processing, advertising and administration of each case. The applicant shall also be responsible for obtaining a notification sign from the Planning Office and placing it on the property fifteen (15) days prior to the hearing by the Board of Appeals.

11-5.4 Appeals to the Board

An appeal to the Robertson County Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by a decision of the zoning administrator based in whole or in part upon the provisions of this resolution. Such appeal shall be taken by filing with the Board of Zoning

Appeals a notice of appeal specifying the grounds, thereof of the appeal. The zoning administrator shall transmit to the board all papers constituting the record upon which the action appealed was taken.

The Board shall fix a reasonable time for the hearing of the application or appeal; shall give at give at least fifteen (15) day notice, of the time and place of the hearing in a newspaper of general circulation in County and to the parties in interest and adjacent property owners. At the hearing, any person or party may appear in person, by agent, or by attorney.

11-5.5 Powers of the Board

The 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, requirements, permit, decision, determination, or refusal made by the building commissioner or other administrative official in the carrying out or enforcement of any provisions of this resolution.

B. District Boundary Determination

To determine the location of zoning district boundaries, when it is alleged that an error, an omission or other condition has resulted in an indeterminate boundary condition.

C. Special Exceptions

To hear and decide in accordance with the provisions established in this resolution requests for special exceptions for which the Board of Appeals is authorized to consider.

D. Variances

To hear and decide applications for variances from the terms of this resolution, where by reason of exceptional narrowness, or shape of a specific piece of property at the time of the enactment of this resolution or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of such of such regulation will result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner in meeting the requirements. Such relief may be granted, provided that the granting of such relief without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Plan and Zoning Resolution.

11-5.6 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause eminent 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 Administrator, and on due cause shown.

11-5.7 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.

11-5.8 Rehearing's

- A. No rehearing of the decision by the Board shall be had except:
 - 1. On motion to reconsider the vote; or
 - 2. On a written request for a hearing.
- B. If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by resolution in each case, stipulate.
- C. No request to grant a rehearing will be entertained unless new evidence is submitted which could not reasonably be presented at the previous hearing.
- D. No rehearing for a variance shall be granted to 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.

11-5.9 Court Review

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Appeals may appeal the same to the Chancery Court of Robertson County. If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a reference to take such evidence as it may direct. This evidence shall be reported to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

11-6 VARIANCE PROCEDURE

11-6.1 Petition for Appeal or Variance

An appeal may be initiated by any aggrieved party or by any officer of the County.

A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

11-6.2 Filing of Notice of Appeal

A notice of appeal shall be filed with the Zoning Administrator or designated staff contesting any order, decision, determination, or interpretation within thirty (30) working days of the day the order, decision, determination, or interpretation is made or rendered by an administrative officer. The Board of Appeals may waive or extend the thirty (30) day deadline only upon determining that the person filing the notice of appeal received no actual or constructive form of notice of the order, decision, determination, or interpretation being appealed. The notice filed with the Zoning Administrator or designated administrator shall be accompanied by a nonrefundable filing fee as established by the County Commission and a list of adjoining properties including tax parcel numbers and the name and address of each owner. Failure to file timely notice and fee shall constitute a waiver of any rights to appeal under this chapter.

Upon receipt of a notice of appeal the Zoning Administrator or administrative officer shall transmit to the Chairman of the Board of Appeals copies of all administrative papers, records, and other information regarding the subject matter of the appeal.

The filing of such notice shall stay any proceedings in furtherance of the contested action, except the Zoning Administrator may certify in writing to the Board of Appeals that because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of these regulations. The Board of Appeals shall then review such certificate and may override the stay of further proceedings.

11-6.3 Filing a Variance Petition

A petition for variance, in the form prescribed by the Board of Appeals, shall be filed with the Zoning Administrator or designated administrator, accompanied by a non-refundable filing fee as established by the County Commission and a list of adjoining properties including tax parcel numbers and the name and address of each owner.

11-6.4 Notice and Hearing:

The Board of Appeals shall, in accordance with rules adopted by it for such purpose, hold public hearings on any appeal or variance petition that comes before it.

The Board of Appeals shall, prior to the hearing, mail written notice of the time, place, and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property, and to the owners of property adjacent to the subject property.

11-6.5 Standards for Granting an Appeal:

The Board of Appeals shall reverse or modify the order, decision, determination, or interpretation under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.

In modifying the order, decision, determination, or interpretation, the Board of Appeals shall have all the powers of the officer from whom the appeal is taken.

11-6.6 Standards for Granting a Variance:

Before granting a variance, the Board of Appeals shall have made the following findings:

That practical difficulties or unnecessary hardships, as defined in **(Subparagraph 2)** below, would result from the strict application of these regulations; and

That the variance is consistent with the objectives and policies of any adopted plan for the district or area covering the property, any other adopted written policies governing land development, and the construction and improvement of public facilities, and the general intent of these regulations; and

That the public safety and welfare have been protected and substantial justice done.

Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met:

The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and

The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties classified in the same zoning district and/or used for the same purposes; and

The difficulty or hardship resulting from the application of these regulations would prevent the owner from making a reasonable use of

the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.

The Board of Appeals shall not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension of a nonconforming use, or would change the zoning classification of any or all of the subject property. The existence of a non-conforming use of neighboring land, buildings, or structures in the same district or of permitted or non-conforming uses in other districts shall not constitute sufficient reason for granting the requested variance.

The fact that property may be utilized more profitably will not be considered adequate to justify the Board of Appeals in granting a variance.

11-6.7 Action by the Board of Appeals

The concurring vote of majority of the members present and voting shall be necessary to grant an appeal or request for a variance. The Board of Appeals shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, determination, or interpretation under appeal by recording in the minutes of the meeting the reasons that the Board of Appeals used and the findings of fact and conclusions of law made by the Board of Appeals to reach its decision.

11-6.8 Effect of Variance, Reversal or Modification of Administrative Decision

After the Board of Appeals approves a variance, or reverses or modifies an order, decision, determination, or interpretation of an administrative officer, the appellant or petitioner shall be responsible for obtaining a building permit and/or certificate of occupancy, as applicable, in order to proceed with development of the subject property. All orders, decisions, determinations, and interpretations made by administrative officers under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Appeals.

11-6.9 Rehearing

The Board of Appeals shall refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

11-6.10 Appeal from Board of Appeals

A written copy of the Board's decision shall be delivered to the appellant either by personal service or by certified mail. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any agent of Robertson County, may appeal the decision of the Board within thirty days after said decision is filed in the

Office of the Board of Appeals or after a written copy thereof is delivered to the appellant, whichever is later. Appeal shall be in the form of a petition for review to the Superior Court.

11-7 SPECIAL EXCEPTION PROCEDURE

11-7.1 Purpose

This section provides the standards and procedures for locating uses that may be compatible with the purpose and intent of a given zoning district, but nonetheless have the potential for substantial impacts on other uses permitted in the same zoning district and the surrounding area. In order to ensure that these uses would not be detrimental to surrounding development, and in keeping with the purposes of the district in which they are proposed to be placed, they are not allowed to be established as a matter of right. Such uses may be established only after a review of the specific proposal and approval of a Special Exception Permit.

11-7.2 Application

A request for a Special Exception Permit will be considered only if requested by the owner or an authorized agent of the property owner. Applications for all Special Exception Permits or amendments to any approved special use permit must be filed in the office of the Zoning Administrator, accompanied by a fee established by the County Commission. Such application must include documentation as required by **Subparagraph A (below)** and as may be required by subparagraph B (below).

A. Application Content: A petition requesting a special use permit must be accompanied by a site plan, drawn to scale, and any necessary supporting text, which shall include all data specified in subparts 1 through 14 below. Where the type of use or scale of proposal makes providing any of the following items unnecessary or impractical, the Zoning Administrator may waive individual items.

1. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;
2. Existing topography and the general nature of the proposed topography at five (5) foot contour intervals or less;
3. All existing easements, reservations, rights-of-way, and any other restrictions on the use of the land;
4. Number and general location of proposed structures;
5. Proposed use of all land and structures, including the

number of residential units or the total square footage of any nonresidential development;

6. All yards, buffers, screening, and landscaping required by these regulations;
7. Any proposed screening, buffers, and landscaping over and above that required by this Resolution, as well as proposed treatment of any existing natural features;
8. All existing and proposed points of access to public streets; the location of proposed new streets;
9. Delineation of areas within the regulatory flood plain as shown on the Official Flood Maps;
10. Proposed number and location of signs;
11. Proposed phasing, if any, and approximate completion time for the project;
12. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development, for evaluation by the town's consulting engineer;
13. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
14. A listing of adjoining properties including tax parcel numbers and the name and address of each owner provided in digital form if possible.

B. Additional Information: In the course of evaluating the proposed use, the Zoning Administrator, Planning Commission or Board of Appeals may request additional information from the petitioner. Such requests shall stay consideration of the special use permit by the Planning Commission or Board of Appeals. Information requested may include the following:

1. The location of significant trees on the petitioned property;
2. Scale of buildings relative to adjoining properties, including sight lines;
3. Height of structures;
4. Exterior features of proposed development;
5. Any other information needed to demonstrate compliance with these regulations.

- C. Plans Part of Application: The site plan, building elevations, perspectives, sections, and any supporting text shall constitute part of the Special Exception Permit application for all purposes under these regulations.
- D. Copies of Petition: The Zoning Administrator shall determine the number of copies of each petition and accompanying documentation to be submitted by the petitioner so that copies may be circulated to all appropriate agencies for review and comment.

11-7.3 Withdrawal or Amendment of Special Use Permit Application

An application for a Special Exception Permit may be withdrawn or amended in the same manner as a proposed amendment to the zoning map, following the procedures of ***Section 11-7.2, Application***.

11-7.4 Hearing, Findings, Recommendation and Decision

- A. Hearing:
 - 1. A Special Exception Permit hearing will be conducted as a quasi-judicial hearing before the Board of Appeals.
 - 2. The applicant has the burden of producing competent, material, and substantial evidence establishing that:
 - a. The proposed special use will comply with all of the lot, size, yard, and other standards established by this Resolution which applies to all uses permitted in the zoning district in which the property is located; and
 - b. The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a Special Exception Permit for this use.
- B. Required Findings: The Special Use Permit shall be granted by the Planning Commission or Board of Appeals when each of the following findings has been made:
 - 1. That the use will not materially endanger the public health or safety if located where proposed;
 - 2. That the use will meet any restrictions imposed pursuant to ***Section 11-7.6 (Greater Restrictions)***;
 - 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

4. That the location and character of the use will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and its environs. If the Board of Appeals does not make these findings, and then the Special Exception Permit shall not be granted.

C. Recommendation and Decision:

1. In considering an application for a Special Exception Permit, the Planning Commission in an advisory capacity and the Board of Appeals, in a decision making capacity, shall consider, evaluate and may attach reasonable and appropriate conditions and safeguards to the location, nature, and extent of the proposed use and its relation to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety, and general welfare of the community.
2. Any such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development, and other matters the Board of Appeals may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Appeals.

11-7.5 Effect of Approval or Denial of Permit

- A. Effect of Approval: Approved applications for a special use permit along with all conditions which may be attached to the approval are binding on the property. Unless terminated by procedures established **Section 11-7.11** (*amendment to an Approved Special Exception Permit*), below, all subsequent development and use of the property must be in conformance with the special use permit and all plans, specifications, and conditions.
- B. Effect of Denial:
1. If an application for a special use permit is denied by the Board of Appeals, a reapplication for that special use on that property may not be instituted within one (1) year of the date of denial.
 2. The Board of Appeals may allow re-submission of the application within the one (1) year restricted period if it determines that, since the date of action on the prior application, one (1) of the following criteria has been met:
 - a. The Board of Appeals has adopted a new or amended plan for the area that changes public policy regarding

how the subject property and/or the general area affected by the special use permit should be developed; or

- b. Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed special use permit; or
- c. There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on resubmission of a special use permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.

11-7.6 Greater Restrictions

In granting a Special Exception Permit, the Board of Appeals may impose more restrictive requirements, as it may deem necessary in order that the purposes and intent of this Resolution are served.

11-7.7 Permit Perpetually Binding

Unless expired or discontinued, any Special Exception Permit so authorized shall be perpetually binding upon the property unless subsequently changed or amended as provided for in this Article, or until a use otherwise permitted in the zoning district is established.

11-7.8 Compliance with Approved Permit

No permit shall be issued for any development activity on property subject to a Special Exception Permit except in accordance with the approved Special Exception Permit.

11-7.9 Submission of Site Plans

Site plans for any development made pursuant to any Special Exception Permit shall be submitted for review in the same manner as other development plans required by this Resolution.

11-7.10 Minor Modifications

In accordance with **Section 11-10.4** (*Minor Modifications of Conditions in Conditional Zoning Districts*) the Planning Commission may approve minor modifications of the conditions in the Special Use Permit where such modifications will result in equal or better performance, provided that the objective and purpose of the requirements and conditions of the Special Use Permit are maintained.

11-7.11 Amendment to an Approved Special Use Permit

- A. The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits.
- B. Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any plans or conditions which were a part of the original special use permit, and the present standards and requirements in this zoning ordinance.
- C. The Board of Appeals may change or amend a Special Exception Permit in the same procedure as that required for the original issuance of the Special Exception Permit. No proposal to change or amend any Special Exception Permit shall be considered within one year after the date of the original authorization of such permit, or within one year after the hearing of any previous proposal to change or amend such permit.

11-7.11 Violation of Permit Conditions

Any violation of a condition in an approved Special Exception Permit shall be treated the same as any other violation of this Resolution and shall be subject to the same remedies and penalties as any such violation. The Board of Appeals may, after a hearing, revoke such permit on all or part of a development if it finds that the violation was intentional, was continued for an unreasonable time, or was substantially inconsistent with the purposes of the zoning district.

11-7.13 Expiration or Discontinuance

- A. Expiration of Permit: Authorization of a Special Exception Permit shall be void after two (2) years or such lesser time as the authorization may specify unless use of the property has begun and/or a footing inspection has been passed.
- B. Discontinuance of Permitted Activity: If any special exception is discontinued for a period exceeding eighteen (18) months or replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the Special Exception Permit shall be null and void and of no effect. The owner shall demonstrate that the special use has not been discontinued for a period exceeding eighteen (18) months or has not been replaced by a use otherwise permitted to maintain a valid Special Exception Permit.

11-7.14 Appeals

Any petition for court review shall be filed with the court clerk within thirty (30) days after a written copy of the decision of the Board of

Appeals is filed in the office of the Zoning Administrator and delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later.

11-7.15 Recognition of Previously Approved Special Exceptions

Special Exceptions which have been previously granted by the Robertson County will be recognized for building permit and other administrative purposes for three (3) years following adoption of this Resolution. If after three (3) years construction of the development has not begun or there is no valid building permit in effect for the property, the special exception will be considered null and void. If a use approved as a special exception becomes nonconforming and discontinues operation for six (6) consecutive months, the use may not be resumed nor a building permit issued without approval of the appropriate zoning classification and Special Exception Permit required under the provisions of this ordinance.

11-8 AMENDMENTS TO THE ZONING TEXT

The approval of text amendments by the County Board of Commissioners shall be preceded by a finding that a change meets the needs for one of the following reasons:

- A. The use desired is not covered in the text of the Resolution but is acceptable because:
 - 1. The use proposed is in accordance with the purpose of the zoning district; and,
 - 2. There are similar uses in the district; and,
 - 3. The intensity of use proposed is consistent with other uses in the district. In demonstrating this, building volume ratios, site volume ratios, and landscape volume ratios of the proposed use and existing uses that are shall comparable. The County Board of Commissioners, upon recommendation by the Planning Commission, shall adjust the intensity, landscaping, and other criteria to ensure that consistency is maintained within the district.
- B. New conditions have arisen that have not been addressed in the Resolution. These new conditions must be one of the following:
 - 1. The Growth Plan has been amended, and the Zoning Resolution needs to be brought into conformity with the Plan.
 - 2. Changing market or other conditions require new forms of development or new procedures to meet these changing needs.
 - 3. New methods of development or providing infrastructure make it necessary to alter the Resolution to meet these new conditions.

4. Changing governmental finances requires amending the text of the Resolution to be in keeping with the needs of government to provide and afford new public services.
- C. After experience with the regulations, adjustments are needed to achieve the desired objectives. The amendment request must come either from staff recognized problems that need to be corrected or from developers or others experiencing trouble making the regulations work.

11-9 AMENDMENTS TO THE ZONING ATLAS (MAP)

11-9.1 General

Zone boundaries as shown on the Official Zoning Atlas (*Map*) may be amended, supplemented, changed, modified, or repealed according to the provisions of this Resolution by the Robertson County Commission.

The approval of zoning map amendments by the County Commissioners shall be preceded by a finding that the request meets one of the following requirements:

- A. The Growth Plan has been amended and the Zoning Atlas (Map) needs to be brought into conformance with the revised plan; or,
- B. A mistake was made in mapping the original Map. That is, an area is, and has been, developing in a manner and purpose different from that for which it was mapped. It must also be demonstrated that this result was not intended, since the County may have intended to stop an undesirable land use pattern from spreading; or,
- C. Conditions have changed, such as new roads or utilities investments, making another location more favorable for development; or,
- D. Growth rates have changed, thereby increasing the need for additional development land in the County.
- E. Public necessity, convenience, general welfare, or good zoning practice requires that a change be made.

11-9.2. PROCEDURE FOR MAP AMENDMENTS (Amended by resolution #122021139, December 20, 2021)

- A. Applications
 1. Applications for any change, either of district boundaries or classification of property as shown on the Zoning Map, shall be submitted to the County Planning Commission at its

public office or to the Springfield and White House regional Planning Commission Offices. Applications shall be on such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the reviewing Planning Commission, so as to assure the fullest practicable presentation of facts for the permanent record.

- a. Any person or persons desiring a change in the zoning classification of property shall file with the application a statement giving the names and addresses of adjacent property owners to the Planning Commission.
 - b. Each application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application.
2. Applications for zoning map amendments are to be submitted on forms provided by the appropriate Planning Office.
 3. Applications for either map or text amendments shall not be withdrawn from consideration by the Planning Commission after notice has been given as required by Subsection D.

B. Documents

Each application for rezoning shall include the following information:

1. A letter from the owner stating the zoning district being requested and the reason the zoning map amendment is requested.
2. The name and address of the owner of the property at the time the application is being submitted along written designation of any person being designated by the owner to represent the request.
3. Written legal description of the area to be rezoned including the tax map and parcel number. A digital copy of the legal description in Microsoft Word shall be provided to the planning office a minimum of two (2) weeks prior to the request being considered by the Robertson County Planning Commission office. A printed copy of the legal description can be omitted if the digital copy is presented with the application.
4. Applicant shall provide to the Planning Commission at the time the zoning district amendment is requested, information from the water utility information on the location and size of the water line and whether adequate pressure exists for domestic use and the placement of fire hydrants on the line.

Requests that meet any of the following requirements are exempt from the fire hydrant requirement.

- a. Any zoning request or proposed subdivision that will create only one new lot or tract.
 - b. The subdivision or re-subdivision creates no additional building lots or tracts.
 - c. Divisions where there are existing principal structures on all proposed lots.
5. When deemed necessary by the Planning Commission a *"Traffic Impact Study"* will be required or for residential zoning requests that could allow more than seventy-five (75) lots or for commercial industrial requests exceeding forty (40) acres.
6. Applicant shall submit survey map of the area being requested for a zoning map amendment. This survey map shall be at a scale of no less than 1" = 100' and no larger than 1" = 30' feet. The use of smaller scales for large tracts is permissible provided the scale is approved by the Planning Office prior to submittal. The first submittal shall include, six (6) full sized copies and the second submittal requires, fifteen (15) copies (*five (5) full size copies and ten (10) reduced 11" x 17" copies*).
- . The survey map for zoning map amendments shall include the following:
- a. A survey map with a title, north arrow, graphic scale, date of the survey map, civil district, tax map and parcel number and the acreage of the property. If the entire parcel is not requested for a zoning change, then the acreage of the remaining portion of the property shall be included on the map.
 - b. The exact boundary of the as determined by a field survey or other means giving angles to the nearest minute and distances to the nearest one hundredth (1/100) of a foot.
 - c. Location, names and existing public right-of-way of all public roads that the property fronts on.
 - d. The location and width of any existing utility, drainage, access or other private easement that exists on the property.
 - e. Location and size of the water line providing service to the tract along with the location of the nearest fire hydrant.

- f. The location, size, type and current use any structure presently on the property.
- g. Names and address of all adjacent property owners including those on the opposite side of the road from the property shown in relation to the applicant's property.
- h. Each applicant is required to pay a fee established in established in the Robertson Count Planning and Zoning Fee Schedule. The Planning Office shall place a sign on the property stating that a Zoning Request is pending on the property prior to the Planning Commission considering the request and shall remain in place until final action by the Board of County Commissioners. All tracts proposed for a zoning map amendment in addition to the notification sign shall be clearly marked with stakes or pins and flagged.

C. Fees

Each application for an amendment to the Zoning Map shall be accompanied by either a fee, in the amount established in the Planning and Zoning Fee Schedule established by the County Board of Commissioners. This to cover the approximate procedural and review costs of the application. *Under no condition shall said fee be refunded for any reason.*

D. Planning Commission Public Meeting and Recommendations

Before submitting its recommendations on a proposed zoning map amendment to the County Commissioners, the Planning Commission shall consider the request at a public meeting. A notice of the request for a zoning map amendment will be mailed to all adjacent property owners as shown on the rezoning survey prior to the date of the hearing. The notice shall state the place and time of the Planning Commission and County Commission meetings. The Planning Commission will forward all positive recommendations, to County Commission. A requests that receive a negative recommendation from the Planning Commission shall not be forwarded to the County Commission unless requested in writing from the applicant.

The above provisions do not apply to provisions on properties located in the Springfield and White House Planning Regions are reviewed by those Regional Planning Commissions which are reviewed under their guidelines.

E. Board of County Commissioners and Public Hearing

After receiving the Planning Commission's actions and recommendations on a proposed amendment, but before adoption of such amendment, the County Commission shall hold a public hearing.

1. Notice of the time and place of the public hearing shall be given at least fifteen (15) days prior to that date in a newspaper of general circulation in the Robertson County as prescribed in *TCA 13-7-105, (b), (1)*.
2. The Planning Office shall place a sign on the subject property identifying the property requested for rezoning prior to consideration by the County Commission. This provision does not apply to request heard by the Springfield Regional Planning Commission and the White House Regional Planning Commission.
3. Neither an application for zoning map amendment nor the recommendations of the Planning Commission shall be withdrawn from consideration of the County Commission except in writing by the applicant a minimum of four (4) hours prior to the time of the meeting.

F. Decisions

After holding the public hearing, the County Commissioners shall consider such recommendations and vote on the adoption of the proposed amendment. The proposed amendment shall become effective with a favorable vote by a majority of the membership of the County Commission except in cases where the Planning Commission made a recommendation not to adopt the amendment which requires approval by a majority of the entire membership of the County Commission.

G. Failure to Notify

The intention of this Subsection is to provide due notice of proposed zoning amendments to all persons who may be interested in or affected by the changes. Failure to notify, as provided in **Subsections D and E** above, shall not invalidate any recommendation of the Planning Commission, provided that such failure was not intentional. The intention of this Subsection is to provide, as well as possible, due notice to persons substantially interested in a proposed change, that an application to make a change in the Zoning Maps or regulations set forth in this Resolution, is pending before the Planning Commission and County Commission.

H. Repeat Applications

Whenever any petition for an amendment, supplement, or change of the zoning or regulations herein contained (or subsequently established) has been denied by the County Commissioners, no new petition covering the same property for the same zoning classification can be filed with, or considered by, the County Commissioners for a period of six (6) months has elapsed from the date of the original filing.

11-10 LIABILITY OF BOARD MEMBER AND EMPLOYEES

Any board member, building inspector, or other employee charged with the enforcement of this ordinance, acting for Robertson County, within the scope of the responsibilities assigned him under this ordinance 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, building inspector, or employee charged with the enforcement of any provision of this ordinance shall be defended by legal representatives furnished by the county, until the final termination of such proceedings.

11-11 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 zoning ordinance, the building inspector 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.

11-12 SEPARABILITY

It is hereby declared to be the intention of the County Board of Commissioners of Robertson County, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

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

11-13 INTERPRETATION

11-13.1 Purpose

The provisions of this section are intended to provide a simple and expeditious method for clarifying ambiguities in the text of this Resolution, the Zoning Atlas (*Map*) which it incorporates, and the rules and regulations adopted pursuant to it. It is also intended to provide a simple, yet circumscribed procedure for overcoming the inadvertent rigidities and limitations inherent in the promulgation of finite use lists in a world characterized by infinite permutations of essentially similar uses.

11-13.2 Authority

The Planning Director or a designee may, subject to the procedures, standards, and limitations set forth in this Section, render interpretations of any provision of this Resolution or any rule or regulation issued pursuant to it, including interpretations of the various uses in any district not expressly mentioned in this Resolution.

11-13.3 Procedure for Interpretations

- A. All applications for an interpretation of any provision of this Resolution, the Zoning Atlas (Map), or any rule or regulation adopted pursuant to this Resolution shall be submitted in writing to the Planning Director or a designee on a form supplied by Robertson County. No fee shall be required in connection with any such request. Each application shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request of an interpretation, and the precise interpretation claimed by the applicant to be correct. Before rendering any interpretation, the Planning Director shall receive any further facts and information judged by the Planning Director to be necessary for a meaningful interpretation of the provision in question.

Since the information required for interpretations involving land uses is different from the information required to render other types of interpretation, additional information is required for land use interpretations. Land use interpretations are generally tied to a specific property and the specific land use proposed to be permitted; other interpretations are not tied to a specific piece of property, but should apply uniformly to all properties. Therefore, applications for a land use interpretation shall contain at least the following information and documentation, in addition to the information required above:

1. The applicant's name, address, and interest in the subject property.

2. The owner's name and address, if different from the applicant's and the owner's signed consent to the filing of the application.
 3. The names and addresses of all professional consultants advising the applicant with respect to the interpretation.
 4. The street address and legal description of the subject property.
 5. The zoning classification and present use of the subject property.
 6. A complete description of the proposed use.
 7. The uses permitted by the present zoning classification which are most similar to the proposed use.
 8. Documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
 9. Any other information or documentation as the Planning Director may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.
- B. Within thirty (30) days following the receipt of a completed request or application for interpretation, the Planning Director shall mail a written copy of interpretation to the applicant. The Planning Director shall state the specific precedent, reasons, and analysis on which the interpretation is based. Failure of the Planning Director to render an interpretation within this time period, or a longer period of time as may be agreed to by the applicant, shall be deemed to be a rejection of the applicant's proposed interpretation. The Planning Director shall keep a copy of each interpretation on file and shall make a copy of each interpretation available for public inspection during reasonable hours.
- C. Appeals on interpretations rendered by the Planning Director pursuant to this Section may be taken to the Board of Zoning Appeals as provided in this Article.

11-13.4 STANDARDS FOR INTERPRETATIONS

- A. The following standards shall govern both the Planning Director and the Board of Zoning Appeals' decision on appeals from the Planning Director's interpretation:
1. No interpretation shall allow the establishment of any land use which was previously considered and rejected by the

Board of Zoning Appeals on an application for amendment to the Zoning Resolution or the Zoning Atlas (*Map*).

2. No interpretation shall permit a land use listed as a permitted or conditional use in another district if the use is not listed as permitted in the subject property's district.
 3. No interpretation shall permit a land use in a district unless evidence is presented which demonstrates that the land use will comply with each use limitation established for the particular district.
 4. No interpretation shall permit a land use in a particular district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in the district or permitted or conditionally permitted in a less restrictive district.
 5. If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a permitted use, then an interpretation permitting such use shall be conditioned on the issuance of a conditional use permit pursuant to this Resolution.
 6. Any land use permitted or other interpretation rendered pursuant to this Section shall fully comply with all requirements and standards imposed by this Resolution.
- B. No interpretation finding a particular land use to be permitted or conditionally permitted in a specific district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of Robertson County or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, conditional use permits, special use permits, building permits, and certificates of occupancy.
- C. Limitations on Favorable Use Interpretations
1. No interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall be valid for a period longer than one year from the date of issue unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is obtained and a use commenced within that period.
 2. An interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall be deemed to authorize only that particular use at that

particular location for which it was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of six (6) consecutive months or more.

- D. The Planning Director shall keep a record of each interpretation rendered and shall make an annual report of all interpretations to the *Robertson County Board of County Commissioners*. The report shall include any recommendations that this Resolution, the Zoning Atlas (Map), or any rules and regulations applying thereto, be amended to add new provisions or new uses to the various use lists established by this Resolution.

11-14 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.

Certified by the Robertson County Regional Planning Commission.

February 2, 1989
Date

Charles Eugene Federman
Charles Eugene Federman, Secretary

Approved and adopted by the County Commission of Robertson County, Tennessee.

March 20, 1989
Date

Emerson Meggs
Emerson Meggs, County Executive
Robertson County

ATTESTED BY:

Connie K. Swann
Connie K. Swann, Clerk
Robertson County

Caption and Summary published in the Robertson County Times, on March 23, 1989.