APPENDIX B

ZONING*

Editors Note: Printed herein are the zoning rules and regulations adopted by the county commissioners on December 5, 2006 and amended through June 3, 2008. The format, including article and section numbers, has been retained. Obvious misspellings have been corrected without notation and material in brackets [ ] has been added for clarity. This replaces the former zoning rules and regulations adopted by the county commissioners on December 10, 1986; and amended September 6, 1988; March 7, 1989; November 7, 1989; September 3, 1991; November 22, 1991; February 4, 1992; April 22, 1993; Res. of 12-2-97; June 1, 1999; December 19, 2000; September 18, 2001; May 6, 2003; April 20, 2004.

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ARTICLE I.

PURPOSE AND ENACTMENT

The board of commissioners of Monroe County, Georgia under the authority of Article IX, Section 2, Paragraph 4 of the Constitution of the State of Georgia does hereby ordain and enact into law the Official Zoning Resolution for the unincorporated area of Monroe County, Georgia for the following purposes:

• To promote and protect the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Monroe County;

• To achieve such density and distribution of land development as will prevent traffic congestion and
traffic hazards on streets and roads within the unincorporated area of Monroe County;

• To encourage such pattern of development as will secure safety from fire, panic, and other dangers;

• To achieve such timing, density, and distribution of land development and use as will prevent the overburdening and facilitate the efficient and adequate provision of public services and facilities;

• To achieve such density and distribution of housing and other uses as will protect and enhance residential property values; and

• To preserve the natural resources, assets, and beauty of the unincorporated area of Monroe County and encourage architecturally pleasing development.

ARTICLE II.

SHORT TITLE

This resolution shall be known and may be cited as "The Zoning Resolution for the Unincorporated Area of Monroe County, Georgia."

ARTICLE III.

DEFINITIONS OF TERMS USED IN THIS APPENDIX

Section 31. General.

Except as otherwise provided herein, all words shall have their customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. Words or terms importing the masculine gender include the feminine and neuter. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes all other structures of every kind. The word "shall" is always mandatory. The word "may" is permissive. The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied." The word "map" means the "Official Zoning District Maps for the Unincorporated Area of Monroe County, Georgia." The words "zone," "zoning district," and "district" have the same meaning. When connecting two (2) or more permissible uses or activities, the word "or" shall be construed to include the word "and."

Section 32. Specific definitions.

When used in this resolution, the following words and phrases shall have the meaning given in this section:

Accessory buildings: A building subordinate to the main building on a lot or space and used for purposes customarily incidental to those of the main building or use.
Accessory use or structure: A use or structure customarily incidental or subordinate to, but related to the principal structure, building, or use of land and located on the same lot with such principal use or structure.

Active recreational facilities: Equipment areas prepared for active use for recreational and leisure purposes, including but not limited to: playground equipment (swing sets and climbing structures); courts for basketball, volleyball, and tennis; leveled, striped fields for football, soccer, or all-purpose fields; community picnic pavilion (including covered facilities with grills and/or fire pits); and community buildings for recreational events. Trails and bikeways through open spaces shall not be considered active recreational facilities.

Alley: A public way dedicated to and accepted by a governing body, whose primary function is to provide vehicular service access to the rear or side of properties otherwise abutting on a street.

Arterial streets and highways: Those that are primarily designed to accommodate fast or heavy traffic.

Automobile repair garage: Any area of land one (1) acre in size or less, including any building or structures thereon, that is used for the storage, servicing, repairing, equipping, or hiring of motor vehicles.

Automobile service station: Any area of land, including any buildings or structures thereon, that is used to dispense motor vehicle fuels, oils, and accessories at retail, and where repair service is incidental and no storage or parking space is offered for rent. Those services offered by a convenience store, as defined in this section, may also be conducted as part of everyday business.

Bed and breakfast (B&B): A private residence that offers sleeping accommodations to lodgers in fourteen (14) or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers; and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than thirty (30) consecutive days.

Board of commissioners: The Monroe County Board of Commissioners.

Building: Any temporary or permanent structure having a roof impervious to weather and used or designated for the shelter or enclosure of persons, animals, chattels, or property of any kind, including tents, cabanas, and vehicles situated on private property and serving in any way the function of a building.

Building, accessory: See "accessory use or structure."

Building, alterations of: Any change in the supporting members of a building or structure, such as bearing walls, beams, columns, and girders, except such change as may be required for its safety, or any addition to a building, or any change in use resulting from moving a building from one (1) location to another.

Building, principal: The primary building on a lot or a building that houses a principal use.

Business, retail: Business establishments that generally sell commodities or services in varying quantities to the general public. These commodities or services are mainly for the use of the purchaser.
Business, wholesale: Business establishments that generally sell commodities or services in large quantities or by the piece to retailers, jobbers, other wholesale businesses, or manufacturing establishments. These commodities or services are mainly for resale, for use in the fabrication of a product, or for use by a business service.

Campground: Any area of land and/or water on which is located a cabin, tent, travel trailer, motor home, or other type of shelter suitable and intended for use in a temporary seasonal manner. For the purposes of this law, no minimum floor space shall be required for a camp structure.

Change of occupancy: A discontinuance of an existing use and substitution of a use of a different kind or class. Change of occupancy does not include a change of tenants or proprietors unless accompanied by a change in type of use.

Club: Buildings and facilities owned or operated by a corporation, association, person, or persons for social, educational, or recreational purposes, but not primarily for profit or to render a service to the general public.

Collector streets: Streets whose primary purpose is to carry traffic from minor streets to the major system of freeways, expressways, and arterial streets and highways.

Concentrated commercial outdoor recreation: A recreational land use conducted outside of a building, characterized by potentially substantial impacts on traffic, the natural environment, and the surrounding neighborhood, including aerial tramway; alpine or water slide; amphitheater; amusement ride; auto, cycle and go-cart race track; campgrounds without recreational vehicles; coliseum, stadium; drive-in theater; horse, dog track racing track; shooting range; stable; zoo.

Construction, actual: The commencement and continuous, uninterrupted prosecution of construction for the purpose of permanent placement and fastening of materials to the land or structure, for which a permit required pursuant to this resolution or a commercial development permit, if required, has been issued for the same purposes. Construction includes filling, grading, the installation of drainage facilities, and substantial demolition, clearing, excavation, or removal of an existing structure preparatory to new construction, provided that work shall be reasonably continuous until the completion of the new construction.

Convenience store: A single story retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only relatively few items, in contrast to a "supermarket." It is designed to attract and depends upon a large volume of stop and go traffic. Those services offered by an automobile service station, as defined in this section, may also be conducted as part of everyday business.

County: Monroe County, Georgia.

Day care center: Any place operated by a person, society, agency, corporation, institution, or any other group wherein are received for pay seven (7) or more children for group care, without transfer or custody, for more than four (4) hours and less than twenty-four (24) hours per day.

Day care home: Any place operated by any person, who receives for pay three (3) to six (6) children
under seventeen (17) years of age for group care, without transfer of custody, for more than four (4) hours and
less than twenty-four (24) hours per day.

Development plan: A to-scale drawing of a single-family residential, multi-family residential,
institutional, office, commercial, or industrial development, or some combination thereof, showing the general
layout of a proposed development including among other features the location of buildings, parking areas,
buffers and landscaping, and open spaces. The development plan and related information form the basis of
approval or disapproval of a development in the PD district.

Dwelling: Any permanently sited building or portion thereof, which is used or is designed to be used for
residential purposes.

Dwelling, multi-family: A building designed for or occupied exclusively by three (3) or more families
living independently.

Dwelling, single-family: A permanently sited building occupied or designed to be occupied exclusively
by one (1) family, not including dwellings defined herein as manufactured homes or single-family attached
dwellings.

Dwelling, two-family (duplex): A residence building designed for, or used as, the separate homes or
residence of two (2) separate and distinct families, having the exterior appearance of a single-family dwelling
house. Each individual unit in the duplex shall have a separate and direct access to the outside and each
individual unit is to be occupied exclusively by one (1) family or no more than three (3) unrelated individuals.

Dwelling unit: A dwelling or portion thereof providing complete living facilities for one (1) family.

Expressways: Those highways or streets which are used primarily for fast or heavy through traffic and
which are divided with full or partial control of access and generally with grade separation at intersections.

Family: One (1) or more persons living together as a single housekeeping unit.

Firearm repair business: Any establishment where the sole function lies in the repair of firearms.

Freeways: Those streets which are used primarily for fast or heavy through traffic and which are divided
with full control of access and with no crossings at grade.

Frontage, lot: The distance for which the front boundary line of the lot and the street right-of-way line
are coincident.

Garage, repair: A building or portion thereof designed or used for the servicing, repairing, equipping
and hiring of motor vehicles.

Gross floor area: The total area of a building measured by taking the outside dimensions of the building
at each floor level intended for occupancy or storage.

Home business: An occupation for gain or support conducted only by members of a family residing on
the premises and entirely within the main dwelling with a portion of the activities including on-premise retail sales.

**Home occupation:** An occupation for gain or support conducted only by members of a family residing on the premises and entirely within the main dwelling, excluding on-premise retail sales. Exception: If the home is used only as a base of operation (office), with no wholesale or retail sales from the home, and no commercial activities of the business performed at the home base, and with all activities of the business conducted at the locations of the customers, then up to five (5) employees other than family members and residents of the home may be employed in the business. In this type of operation, light trucks (equal to or less than the carrying capacity of a one-ton pick-up truck) may be used to transport equipment and supplies to and from the base of operations to customer sites. If supplies are kept on site, the area must be screened from view on all sides that can be seen from adjoining property.

**Hotel, motel:** A building or portion thereof, or a group of buildings, which provides sleeping accommodations in fifteen (15) or more separate units or rooms for transients on a daily, weekly, or similar short-term basis. Where such an establishment is permitted as a principal use, all uses customarily accessory thereto for the comfort, accommodation, and entertainment of patrons, including restaurants, but not including bars, taverns, and nightclubs unless specifically permitted, shall be permitted uses.

**Junk yard:** A lot, land, or structure, or part thereof, used primarily for the collection, storage, and sale of wastepaper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition; or for the sale of parts thereof.

**Kennel:** Any location where the raising, grooming, caring for, or boarding of dogs, cats, or other small animals for commercial purposes is carried on.

**Laundromat:** A business that provides home-type washing, drying, or ironing machines for hire.

**Laundry, commercial:** An establishment with facilities for laundering clothes, linens, and similar items, the facilities of which are not for hire.

**Laundry and dry cleaning pickup:** An establishment providing for the taking and picking-up of laundry, but not having equipment for the processing of laundry.

**Local commercial and industrial streets:** Those streets whose primary function is to provide access to the abutting commercial and industrial properties.

**Local residential streets:** Including cul-de-sacs, those streets whose primary function is to provide access to the abutting properties.

**Lot:** A parcel of land occupied or to be occupied by one (1) or more main buildings and accessory buildings with such open and parking spaces as are required by the provisions of this resolution and having its frontage upon a public street or streets.

**Lot of record:** A lot or parcel of land whose existence, location, and dimensions have been recorded in the office of the Clerk of the superior court of the county.
Lot width: The distance between lot sidelines measured at the building site.

Manufactured home: 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; when erected on site, is three hundred twenty (320) or more square feet in floor area, and which is built on 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, and air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Manufactured home class A: A class "A" manufactured home (doublewide) is one that meets the following standards:

1. It is multi-sectional and encloses a space of not less than one thousand (1,000) square feet.
2. It will be placed on a permanent foundation.
3. Wheels, axles, and hitch mechanisms will be removed prior to occupancy.
4. Utilities will be connected in accordance with state requirements and the manufacturer's specifications.
5. It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code and, at the time of placement meets applicable building codes. This definition does not include two (2) singlewides joined together.

Manufactured home class B: A class "B" manufactured home (singlewide) is one that meets the following standards:

1. It contains more than seven hundred fifty (750) square feet of occupied space in a single, double, expanded, or multi-section unit (including those with add-a-room units).
2. It will be placed on a permanent foundation.
3. Wheels, axles, and hitch mechanisms will be removed.
4. Utilities will be connected in accordance with manufacturer's specifications and state requirements.
5. It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976, and at the time of placement meets applicable building codes.

Manufactured home class C: A class "C" manufactured home (built before 1976) is one that meets the following standards:
(1) It has more than three hundred twenty (320) square feet of occupied space in a single, double, expanded, or multi-section unit (including those with add-a-room units).

(2) It will be placed on a support system in accordance with approved installation standards.

(3) It will be enclosed with foundation siding/skirting in accordance with approved installation standards.

(4) Utilities will be connected in accordance with a manufacturer's specifications and state requirements.

(5) It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976, and at the time of placement meets applicable building codes.

Manufactured home park: Any property on which three (3) or more manufactured homes, recreational vehicles, or combination thereof are located or intended to be located for purposes of residential or recreational occupancy of a temporary or permanent nature. A campground designed to serve recreational vehicles is also included in this definition.

Manufactured home space: An area within a manufactured home park, distinguished from a lot in a subdivision under fee-simple ownership, upon which a single manufactured home or recreational vehicle is or may be placed. If designed for seasonal or permanent occupancy, a manufactured home space may provide area and be used for storing the belongings of the occupant.

Marginal access streets or frontage roads: Minor streets that are parallel and adjacent to freeways, expressways, or arterial streets and highways and whose primary function is to provide access to abutting properties and protection from through traffic.

Medical clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions.

Mobile home: 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; when erected on site, is three hundred twenty (320) or more square feet in floor area, 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 therein; and which was built before the enactment of the HUD Code, and has not been inspected and approved as meeting the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Motel: See "hotel."

Municipal solid waste landfill: A disposal facility where any amount of municipal solid waste, whether
or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

**Nightclub:** An establishment operated as a place of entertainment, characterized by any or all of the following as a principal use:

1. Live, recorded, or televised entertainment, including but not limited to performances by musicians or comedians;
2. Dancing.

**Nonconforming use:** A use of land or of a structure existing at the time of enactment or amendment of this resolution, which, by virtue of that enactment or amendment, does not conform with regulations of the use district in which it is located.

**Nursing home:** A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than three (3) persons.

**Outdoor display area:** The area where goods for sale or for advertisement are placed outside of a building or structure, including but not limited to vehicles, garden supplies, gas, tires, motor oil, food and beverages, boats and farm equipment, motor homes, and clothes.

**Outdoor storage:** The storage of any material or object for a period greater than twenty-four (24) hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

**Personal care home:** A building, or group of buildings, facility, or place operated by a person, firm, corporation, association, organization, trust, or partnership not legally related to the individuals served and licensed by the state to provide community alternatives in a residential environment to institutional care for individuals in need of such care and providing a residence for such persons. Such facilities provide room, board, personal and physical care, and supervision in a family environment. The term "Personal Care Home" shall include, but shall not be limited to, homes as established under the Georgia "Community Services Act for the Mentally Retarded" (Ga. Laws 1972, page 200), and facilities of similar intention and purpose, but shall not include facilities housing persons convicted of crimes but not housed in penal institutions.

**Personal care home, congregate:** A personal care home which offers care to sixteen (16) or more persons.

**Personal care home, family:** A personal care home in a family-type residence, non-institutional in character, which offers care to two (2) to six (6) persons.

**Personal care home, group:** A personal care home in a residence or other type of building or buildings, non-institutional in character, which offers care to seven (7) to fifteen (15) persons.

**Planned development:** A form of development characterized by a unified site design for a number of housing units, clustered buildings, common open space, and a mix of building types and land uses, which may be in a slightly more dense setting than allowable on separate lots.
**Playschool:** A school for pre-kindergarten age children, which operates for less than four (4) hours per day.

**Professional:** When used in connection with "use," "office," and "occupancy," a use or occupancy by persons generally engaged in rendering personal, executive, sales, or administrative services or activities, including but not limited to, accountants, architects, engineers, land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stock brokers, and administrative agencies considered professional in character. This term does not include repairs or sales of tangible personal property stored or located on the premises or any use that would create any loud noise or noxious odors.

**Public utility structure or building:** A structure or building containing equipment or workers involved directly in the operation, as opposed to the administration, of public utility services.

**Public health hazard:** Any building or structure, substance, site or activity which creates a danger to public health or safety because of damage, decay, exposure, or other condition.

**Recreation, active:** Leisure activities usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term active recreation includes, but is not limited to, swimming, tennis and other court games, baseball and other field sports, golf, and playground activities.

**Recreation, passive:** Recreational activities that generally do not require a developed site. This generally includes such activities as hiking, horseback riding, and picnicking.

**Recreational vehicle (RV):** A vehicle designed as temporary living quarters for recreational camping, travel or seasonal use. RVs may have their own motor power (as in the case of motor homes); may be mounted (as are truck campers); or towed by another vehicle (as are travel trailers and folding camping trailers). Not included in the RV definition are conversion vehicles, off-road vehicles and manufactured housing for long-term residence (park trailers and mobile homes). (Recreation Vehicle Industry Association website-2005)

**Residential child care facility:** An institution, society, agency, or facility providing full-time care for children less than seventeen (17) years of age outside of their own homes, including temporary shelters or other facilities for children and their families or portions thereof. This term shall include "child-caring institutions," as defined in the Georgia Children and Youth Act (O.C.G.A. § 49-5-1), but shall not include foster family homes.

**Road:** All property dedicated or intended for public or private road, street, alley, highway, freeway, or roadway purposes or to public easements therefore.

**Rooming house:** A building other than a hotel or motel where for compensation lodging is provided for terms exceeding one (1) week for more than two (2) but not more than twenty (20) persons in more than two (2) rooms that, individually or collectively, do not constitute separate dwelling units.

**Sale, garage or yard:** Any outdoor display of merchandise for sale, not to exceed more than three (3) continuous days out of three (3) continuous months.

**Sign, outdoor advertising:** A structural poster panel or painted sign, either free-standing or attached to a
building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the premises upon which it is located. See the county sign ordinance for specific regulations.

*Slaughter house:* A facility for the slaughtering and processing of animals and the refining of their by-products.

*Stadium:* A large open or enclosed space used for games or other major public gathering purposes, and partly or completely surrounded by tiers of seats for spectators.

*Structure:* Anything constructed or erected.

*Telecommunications tower:* A structure designed and constructed to support one (1) or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), of either lattice or monopole construction.

*Temporary:* Any land use or structure that will not be in use any longer than ninety (90) consecutive days.

*Truck terminal:* Land and buildings used as a relay station for the transfer of a load from one (1) vehicle to another or one (1) party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

*Use:* The activity or function that takes place or is intended to take place on a lot.

*Zoning enforcement officer:* The person designated by the county board of commissioners to enforce and administer the provisions of this resolution.

**ARTICLE IV.**

**ESTABLISHMENT OF DISTRICTS**

**Section 41. Statement of intent.**

In order to protect the character of existing neighborhoods; to prevent excessive density or population in areas not adequately served with water, sewerage facilities, and fire protection; to ensure that adequate and suitable areas will be available to the county to provide a variety of housing for a growing population; to protect residential areas from adverse effects of traffic, noise, odors, and dust generated by commercial and industrial activity; to provide for and accommodate the orderly growth and expansion of commercial and industrial activities; to promote orderly growth and development by grouping similar compatible, and related uses together and by separating dissimilar, conflicting, and unrelated uses; and in order that the other purposes of this resolution may be accomplished, there are hereby established within the unincorporated area of the county zoning districts, as identified in section 42 of this resolution.

**Section 42. Division of the unincorporated area of the county into districts.**
For the purposes of this regulation, the unincorporated area of the county is hereby divided into the following use districts, the locations and boundaries of which are shown on the "Official Zoning District Maps for Monroe County, Georgia."

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Section 43. Incorporation of zoning maps.

The following maps are hereby made a part of this resolution.

43.1. **Official zoning maps.** The set of maps for the county, entitled "Official Zoning District Maps for the Unincorporated Area of Monroe County, Georgia," hereinafter called official zoning maps, with all notations, references, and other information shown thereon are hereby made a part of this resolution. Said maps shall be made a public record and shall be kept permanently in the office of the zoning enforcement officer, where said maps shall be accessible to the general public.

Section 44. Map amendment.

If, in accordance with the provisions of this resolution, changes are made in the district boundaries or other information portrayed in the official zoning maps, changes shall be made in the official zoning maps promptly after the amendment has been approved by the board of commissioners, together with a numerical entry on the official zoning maps referring to the application on file which states the date of the official action and a brief description of the nature of the changes. No amendment to this resolution that involves matter portrayed on the official zoning maps shall become effective until after such change and entry have been made on said maps.

Section 45. Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforementioned districts as shown on the official zoning maps, the following rules shall apply:

- Unless otherwise indicated, district boundaries are indicated as approximately following property lines, land lot lines, centerlines of highways, streets, alleys or railroads, shorelines of streams, reservoirs, and other bodies or water, or civil boundaries, and they shall be construed to follow such lines.

- Where district boundaries are approximately parallel to the centerlines of streets, highways, or railroads, or the rights-of-way of the same, or the centerlines or streams, reservoirs, and other bodies of
water, or said lines extended, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the official zoning maps. If no distance is given, such dimensions shall be determined through the use of the scale shown on said maps.

- Where a district boundary line, as appearing on the official zoning maps, divides a lot that is in single ownership at the time of this enactment, the board of commissioners may extend the use classification of a larger portion to the remainder without recourse to amendment procedure.

- Where a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, or alley.

- In the case that the exact location of a boundary cannot be determined as provided above, the board of commissioners shall, upon application, determine the location of the boundary.

Section 46. Comprehensiveness of zoning districts.

The purpose of this resolution is to place all portions of the unincorporated area of the county in zoning districts. Should any area appear either by reference to the maps or by interpretation to be inadvertently or otherwise omitted from a classification district, that area or areas are hereby placed in an R - residential district and are subject to all the regulations pertaining thereto until such time as the board of commissioners can determine its proper zoning district classification.

ARTICLE V.

APPLICATION OF REGULATIONS

Section 51. Use.

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

Section 52. Building density.

No building or structure shall hereafter be erected or altered to exceed the density limitations established for the zoning district in which it is located.

52.1. Prohibitions. No building or other structure shall hereafter be erected or altered to accommodate or house a greater number of families than that allowed within the zoning district in which it is located or to in any other manner contravene the provisions of this resolution.

Section 53. Nuisances.

No building shall hereafter be erected, and no building shall be altered, modified, or changed, nor shall any land or building be used in such a way that because of emission of dust, fumes, gas, smoke, odor, noise, vibration, or other disturbance a public health hazard and/or nuisance would be created or maintained.
53.1. **Specific nuisances.** The following shall be considered specific nuisance acts, in regards to noise, dust, other such disturbances, and shall be regulated in the matter specified:

1. **Motorized vehicle racing.** Any type of outside motorized vehicle racing tracks must halt all primary and associated operations by 9:00 p.m., local time, Monday through Thursday, and 11:00 p.m. Friday and Saturday. All primary and associated operations on Sunday shall be limited to the hours of 10:00 a.m. to thirty (30) minutes after dusk, local time. All first time violations shall carry a maximum of a one thousand dollar ($1,000.00) fine. Any party falsely reporting violations of this regulation may also be fined in the same manner. Special exemptions will be made to this order for up to four (4) special events per year upon written request to the county commission submitted at least thirty (30) days before the event.

### ARTICLE VI.

**GENERAL PROVISIONS**

**Section 61. Nonconforming lots, nonconforming uses of land, nonconforming structures, and nonconforming uses of structures and premises.**

Within the zoning districts established by this resolution or amendments that may later be adopted, there may exist lots, structures, and uses of land and structures that were lawful before this resolution was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this resolution or future amendments. It is the intent of this resolution to permit these lots, structures, and uses of lots and structures, hereafter referred to as nonconforming lots, structures, and uses, to remain until they are voluntarily removed or otherwise brought into conformity with the provisions of this resolution, but not to encourage their survival. It is further the intent of this resolution that nonconformities shall not be enlarged, expanded, extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

61.1. **Incompatibility of nonconforming uses.** Nonconforming uses are declared by this resolution to be incompatible with permitted uses in the districts in which such a use is located. A nonconforming use shall not be extended or enlarged after adoption of these regulations, nor shall uses of a nature that would be prohibited generally in the district involved be added.

61.2. **Avoidance of undue hardship.** Nothing in this resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun, and for which a valid commercial development permit or other permit required by this resolution was obtained before the effective date of amendment or adoption of this resolution.

61.3. **Nonconforming lots of record.**

A. All legally established and recorded lots prior to the effective date of the resolution, or its subsequent amendments, that no longer meet the lot standards listed below shall be deemed legal-nonconforming lots of record. A legal-nonconforming lot of record no
longer meets one (1) or more of the following lot standards of the resolution:

- Lot area.
- Lot width.
- Lot depth.
- Lot frontage.
- Any other provision of the resolution that is applicable to lots.

61.4. *Nonconforming lots of record in combination.* If two (2) or more lots or a combination of lots and portions of lots, vacant or otherwise, have continuous frontage and are in the same ownership of record at the time of passage or amendment of this resolution and if part or all of the lots do not meet the requirements established for lot width, area or both, then the lands involved shall be considered to be an undivided parcel. The lands involved shall not be developed except in compliance with this appendix. A parcel of land created by the combination of nonconforming lots may not be subdivided and sold to another entity as a means of avoiding the requirements of this section. Any conforming lot shall not be divided so as to create a lot that does not meet the requirements of this appendix.

61.5. *Nonconforming uses of land.* Where, on the effective date of adoption or amendment of this resolution, lawful uses of land exist which would not be permitted by the requirements imposed by this resolution, said uses may be continued so long as they remain otherwise lawful, provided:

- No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this resolution.
- No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this resolution.
- If any such nonconforming uses are discontinued for a period of more than six (6) months, any subsequent use of such land shall conform to the requirements specified for this resolution for the district in which such land is located.
- No additional structures not conforming to the requirements of this resolution shall be erected in connection with such nonconforming use of land.
- Nonconforming agricultural uses shall be considered as a whole under this section. An agricultural use that is conducted on a substantial portion of a parcel or plot shall be construed to occupy the entire parcel or plot. Nothing herein shall be construed to prohibit the construction of new or a replacement agricultural accessory structure, provided the scale of such agricultural operation is not substantially increased and any setback or yard requirements are met.
61.6. *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this resolution that could not be built under the requirements of this resolution by reason of restrictions on area, lot coverage, height, yards, location on the lot, bulk, or other requirements concerning the structure, such structure may be maintained so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure shall be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. No such alterations or enlargement shall in itself be nonconforming.

2. Should such nonconforming structure or nonconforming portion of structure be involuntarily destroyed by any means to the extent of more than fifty (50) percent of its current market value, it shall not be reconstructed except in conformance with the requirements of this resolution, except that the owner of said structure at the time of such destruction may reconstruct said structure within six (6) months of its destruction. This provision shall be construed to include the replacement of a destroyed nonconforming manufactured home.

3. Should such structure be voluntarily moved for any reason for any distance, it shall thereafter conform to the requirements of this resolution for the district in which it is located.

4. This section shall not be construed to prohibit the addition to or improvement of a nonconforming manufactured or mobile home, provided said addition or improvement shall cause the home to more closely resemble a site-built structure, thus decreasing the appearance of nonconformity.

61.7. *Nonconforming uses of structures or structures and premises in combination.* If a lawful use involving individual structures, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this resolution that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this resolution in the district in which it is located shall be enlarged, extended, constructed, reconstructed, voluntarily moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any structure, or structure and land in combination, in or on which a nonconforming use is replaced with a conforming use may not later revert to a nonconforming use.

3. Any nonconforming use may be extended throughout any part of a building that was manifestly arranged or designed for such use at the time such use became nonconforming, but no such use shall be extended to any land outside such building.

4. When a nonconforming use of a structure, or structure and premises in combination, is
discontinued or abandoned for a period of more than six (6) months, such structure or structure and premises shall not thereafter be used, except in conformity with the regulations of the district in which it is located.

5. Where nonconforming use status applies to a structure and premises in combination, the removal or destruction of such structure to an extent greater than fifty (50) percent of market value shall not eliminate the nonconforming status of the land.

61.8. **Repairs and maintenance.** On any nonconforming structure or portion of a structure containing a nonconforming use, ordinary repair and maintenance work, including remodeling, repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, shall be permitted providing that the cubic volume existing when it became nonconforming shall not be increased, except pursuant to section 61.6.4. Nothing in this section shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 62. Control of curb cuts and vision clearance.**

The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:

62.1. **Curb cuts.** No curb cut shall exceed fifty (50) feet in length, nor shall curb cuts be closer than one hundred twenty (120) feet to an intersection of two (2) streets measured along the curb lines.

62.2. **Vision clearance.** There shall be no fence (other than a wire fence), wall, shrubbery, sign, or other obstruction to vision between the height of two and one-half (2 1/2) feet and ten (10) feet from the ground level permitted within twenty-five (25) feet of the intersection of the right-of-way lines of two (2) streets or railroad lines, or of a street intersection with a railroad line.

**Section 63. Storage and parking of trailers and commercial vehicles.**

Commercial vehicles and commercial trailers of all types shall not be parked or stored on any lot in any residential district except in accordance with the following requirements:

63.1. **Limitation on number, size and cargo of vehicles.** No more than one (1) commercial vehicle per dwelling shall be permitted, and in no case shall vehicles carrying explosives, gasoline (other than that in the fuel tank used for propelling the vehicle), liquefied petroleum products, or other hazardous materials or of a size in excess of ten thousand (10,000) pounds gross vehicle weight be permitted.

63.2. **Prohibition of occupancy of stored or parked recreational vehicles.** A recreational vehicle shall not be occupied temporarily or permanently while it is parked or stored in any residential district, except as a temporary residence during construction of a permanent residence.

**Section 64. Reserved.**
Section 64.1. Zoning classification.

Time limits: Once a parcel has been reclassified either through a rezoning, conditional use or a variance and the new classification has not been justified after a period of twelve (12) months, the parcel may revert to its original classification upon recommendation to the board of commissioners by the zoning officer. The applicant may request an extension of twelve (12) months to be approved by the board of commissioners. (Mo. of 5-19-09)

ARTICLE VII.

USE AND DIMENSIONAL REQUIREMENTS BY DISTRICT

Section 71. A - agricultural/rural district.

71.1. Intent of district. This district is established to provide for a mixture of agricultural, rural residential, and selected commercial uses.

71.2. Dimensional standards. The minimum lot size in an A district shall be three (3) acres and the minimum lot width shall be one hundred fifty (150) feet at the building site. The setbacks fro the main structure are fifty (50) feet from the front and rear property lines and twenty (20) feet from the side property lines. If it is a corner lot, the side setback facing the street is also fifty (50) feet.

71.3. Permitted uses. The following uses are permitted within an A district:

a. Agriculture, forestry, livestock and poultry production.

b. Single-family dwellings.

c. Class A and B manufactured homes less than fifteen (15) years of age from the date of the application.

d. Two (2) one-family dwellings per parcel.

e. Temporary stands for sale of agricultural products.

f. Churches and other places of worship, with attendant educational and recreational buildings.

g. Public and private schools, colleges, libraries, business, or trade schools.

h. Public utility structures and buildings.

i. Cemeteries and mausoleums.

j. Residential childcare facilities.

k. Private clubs, lodges, and fraternal orders.
l. Garage or yard sales.

m. Home occupations.

n. Plant nurseries.

o. Poultry production. Poultry production after December 2, 1997, shall be restricted and limited, as follows:

i. A poultry house is defined as a structure for the production of poultry, which is in excess of one hundred (100) square feet and utilized for commercial poultry production.

ii. Each poultry house must be set back a minimum of two hundred (200) feet from the owner's or producer's property lines, and must be located at a minimum of one thousand (1,000) feet from the nearest residence, excluding the residence of the producer or owner. A residence is defined as a permanent dwelling, excluding temporary residences, such as campers or tents.

iii. A minimum of twenty (20) contiguous acres of land is required for the location of any poultry house and no more than two (2) poultry houses may be located on twenty (20) acres of land. For each additional poultry house above two (2), an additional five (5) acres shall be required.

iv. A buffer zone of trees at least one hundred (100) feet wide located on the owner's or producer's property must surround the poultry houses, and the buffer of trees must contain at least two hundred (200) trees per acre.

71.4. Conditional uses. The following uses may be allowed as conditional uses in an A district:

a. Grocery, fruit and vegetable stores, meat markets, delicatessens, and catering stores.

b. Professional offices.

c. Hardware stores of three thousand (3,000) square foot or less.

d. Farm and garden supply stores.

e. Dressmaking and tailoring shops.

f. Laundry and dry cleaning pickup stations and laundromats.

g. Playschools, day care centers, and day care homes.

h. Multi-family dwellings.
i. Two (2) or more two-family dwellings per parcel.

j. Restaurants, cafeterias, grills, and lunch counters having a size of less than six thousand (6,000) square feet, but not including nightclubs, bars, taverns, and establishments with "drive-thru" service.

k. Veterinary hospitals, clinics, or kennels, provided that any structure used for such purposes be a minimum of one hundred (100) feet from any residential district.

l. Locksmith or firearm repair shops.

m. Automobile service stations and sales of motor fuels in connection with another use.

n. Barber and beauty shops.

o. Public or private owned and operated golf, swimming, tennis, or country clubs, community clubs or associations, fishing or hunting clubs, athletic fields, parks, and other similar recreation areas, with the exception of concentrated commercial outdoor recreation facilities as defined in this appendix.

p. Medical clinics.

q. Automobile repair garages, with a minimum of a 25-foot evergreen buffer.

r. Airplane landing fields and helicopter ports, with accessory facilities, with a minimum of a 25-foot evergreen buffer.

s. Campgrounds.

t. Rooming houses.

u. Personal care, convalescent, and nursing homes.

v. Convenience stores.

w. Nightclubs that serve beer and wine only, not liquor.

x. Home businesses, pursuant to the provisions of section 85 of this resolution.

y. Telecommunications tower provided the location of the tower is not closer than three hundred (300) feet to any property line. See section 87 of this appendix for regulations.

z. Any other business that is similar in nature at the discretion of the zoning officer.

Section 72. R - residential district.
72.1. **Intent of district.** This district is established to encourage the orderly development of and protect predominately residential areas, to protect against traffic congestion and hazards resulting from "strip" development adjoining roads passing through the county, and to ensure that such development as occurs in these areas is compatible with the predominately residential character of this district.

72.2. **Dimensional standards.** The minimum lot size and minimum lot area per dwelling unit in an R district shall be one (1) acre, and the minimum lot width shall be one hundred fifty (150) feet at building site. The principal structure must be set back fifty (50) feet from any street or rear lot line and twenty (20) feet from any side lot line.

72.3. **Permitted uses.** The following uses are permitted within an R district:

a. Single-family dwellings.

b. Class A manufactured homes less than fifteen (15) years of age from the date of the application.

c. Home occupations with no supplies or materials kept outside of the main dwelling.

d. Garage or yard sales.

e. Personal greenhouse or vegetable garden.

f. Guest house.

g. Swimming pools and tennis courts.

h. Horses are permitted on lots of five (5) acres or more. Horse barns must be set back from property lines at least one hundred (100) feet.

72.4. **Conditional uses.** The following uses may be allowed as conditional uses in an R district:

a. Churches and other places of worship, with attendant educational and recreational buildings and associated cemeteries and mausoleums, provided such accessory uses shall be placed not closer than fifty (50) feet from any property line.

b. Playschools, day care centers, and day care homes.

c. Public and private schools, colleges, and libraries, excluding business or trade schools.

d. Public utility structures and buildings, not including radio and television transmission stations and electric generating plants, provided the installation is properly screened from surrounding uses. No office shall be permitted, and no equipment shall be stored on the site.

e. Publicly or privately owned and operated golf, swimming, tennis, or country clubs, community clubs or associations, athletic fields, parks, and other similar recreational
areas, with the exception of concentrated commercial outdoor recreation facilities as defined in this appendix, provided that no building for such proposed use is located within one hundred (100) feet of any property line.

f. Other public buildings and uses.

g. Temporary uses, including sale of Christmas trees, carnivals, bazaars, and the sale of seasonal fruits or vegetables from roadside stands.

h. Family personal care homes.

i. Home businesses.

j. One (1) two-family or one (1) multi-family dwelling per lot.

k. Stadiums.

l. Any other similar uses as determined by the zoning officer.

Section 73. R-M - manufactured home district.

73.1. **Statement of purpose.** This section regulates mobile home parks, manufactured home parks, and recreational vehicle and travel trailer parks and campgrounds, which provide for affordable permanent and temporary housing or recreational developments. Manufactured home parks are intended to provide for the leasing of spaces or campsites for recreational vehicles, within a planned residential community, park, or campground. A manufactured home park is different from a residential subdivision in that the individual spaces for manufactured homes, campsites or recreational vehicles are leased rather than platted and sold. By requiring less land per home or vehicle space, manufactured home parks are built at densities greater than those for other detached dwellings. Service facilities such as laundry and leasing office are often planned and provided as part of the park development.

73.2. **Site plan review and land use permit required.** No manufactured home park shall be developed until and unless the zoning administrator and county engineer have approved a site plan and the zoning administrator has issued a land use permit. The zoning administrator shall not issue a land use permit for a manufactured home park unless it is in conformity with all the provisions of this resolution.

73.2.1. **Procedure for site plan approval.** Prior to the subdivision of land, cutting or grading of any street or the making of any street improvements, or the installation of utilities, the developer shall submit to the zoning administrator a site plan of the proposed manufactured home park in accordance with the following procedures:

1. If the property being developed does not abut any part of the state highway system, the developer shall submit to the zoning administrator the site plan, along with all applicable fees and copies according to the fee schedule as adopted by the county and other documents. The board of commissioners shall act on the site plan at a regular meeting of the board of commissioners no less than five (5) calendar days and no more than sixty
(60) calendar days from the date of receipt of a complete site plan by the zoning administrator. A site plan must be submitted to the zoning administrator by noon on the Thursday immediately preceding a Tuesday county commissioners meeting.

2. If the property being developed includes or abuts any part of the State highway system, the developer shall submit to the zoning administrator a site plan, along with all applicable fees and copies according to the fee schedule as adopted by the county and other documents. The zoning administrator shall forward three (3) copies of the site plan and other documents to the state department of transportation. The board of commissioners shall act on the site plan at a regular meeting of the board of commissioners no less than five (5) calendar days and no more than sixty (60) calendar days from the date of receipt of a complete site plan by the zoning administrator or at the next regular meeting of the board of commissioners no less than five (5) calendar days from date of receipt of the decision of the state department of transportation by the zoning administrator, whichever is later. Site plans for the development of property abutting the state highway system that do not include all necessary requirements shall not be considered complete. Approval of a site plan does not relieve the developer of the requirements to obtain a commercial driveway permit from the state department of transportation.

3. State department of transportation recommendations. The zoning administrator shall submit three (3) copies of the site plan to the state department of transportation if the proposed development includes or abuts on any part of the state highway system. The department of transportation, within thirty (30) days of receipt of the plan, shall recommend approval or disapproval and note its recommendation on the copy to be returned to the zoning administrator. Failure of the department of transportation to act within this 30-day period shall constitute approval. If the plan is recommended for disapproval, the reasons for disapproval and requirements for approval shall be given to the zoning administrator in writing; but such recommendations shall be advisory only and shall not be binding on the board of commissioners. Approval of a site plan does not relieve the developer of the requirement to obtain a commercial driveway permit from the state department of transportation.

4. Following the hearing of the site plan and other related material, the board of commissioners may express preliminary approval noting the conditions of such approval on four (4) copies of the site plan with one (1) copy being returned to the developer, one (1) copy to the county health department, one (1) copy to the zoning administrator, and one (1) copy to be added to the records of the board of commissioners.

5. Approval shall expire and be of no further effect twelve (12) months from the date of the approval unless the time is extended by the board of commissioners.

6. Notice of hearing. Notice of the time and place of hearing shall be sent to the address of the developer not less than five (5) days before the date fixed therefore. It shall be the responsibility of the zoning officer to send said notice.
7. Review of preliminary plat. The zoning administrator shall check the site plan for conformance to the rules and regulations of these regulations and report his or her findings and recommendations to the board of commissioners, which shall afford a hearing on the site plan.

8. Following the hearing of the site plan and other related material, the board of commissioners may find reasons detrimental to the public safety, health, and general welfare, or in conflict with adopted plans of the board of commissioners which required the disapproval of the site plan. A statement of the reasons for disapproval shall be made on two (2) copies of the site plan with one (1) copy being returned to the developer and one (1) copy being added to the records of the board of commissioners. The applicant may reapply for site plan approval, after any recommended changes have been made, in the same manner that the original site plan was submitted.

9. Failure of the board of commissioners to act on the site plan within the timeframe specified, without due cause, shall be deemed to be approval of the site plan, and a certificate of approval shall be issued by the board of commissioners on demand provided, however, that the developer may waive this requirement and consent to an extension of time.

73.3. Site conditions and planning. Manufactured home parks shall be sited on land that is not subject to hazards such as flooding, erosion, land subsidence, and areas with possible insect or rodent infestation. The condition of the soil, ground water level, drainage, rock formations, and topography shall be appropriate for the use to ensure that no hazards to the property or to the health and safety of the occupants occurs.

Planning for the manufactured home park shall be adapted to individual site conditions and the type of use or uses served, reflect advances in site planning techniques, and be adapted to the trends in the design of the manufactured home or recreational vehicle itself. Site planning and improvements shall: provide for facilities and amenities appropriate to the needs of the occupants; safe, comfortable, and sanitary use by the occupants under all weather conditions; and practical and efficient operation and maintenance of all facilities at reasonable costs. The street and block pattern for the park shall be designed to attain proper sizes and shapes of manufactured home spaces so as to provide desirable areas and to reduce excessive length of street construction without impairing convenient circulation and access.

73.4. General requirements.

73.4.1. All manufactured home parks shall meet the following general requirements:

1. Manufactured home parks shall consist of a minimum of twenty-five (25) contiguous acres.

2. Developers proposing to develop a manufactured home park shall file a site plan, as stated in section 73.2 of this resolution, drawn approximately to scale showing the following features in compliance with the minimum requirements stated herein:

   a. Site location on a county map.
b. Parcel identification (owner(s), boundaries, and owners of adjoining properties).

c. Identification of adjoining land uses.

d. Setback from roadway centerlines.

e. Type of fencing/buffer.

f. The location of at least two (2) entrances/exits.

g. Interior street layout and street widths.

h. Placement of accessory uses.

i. Placement of mobile homes.

j. Any additional information requested by the zoning administrator.

3. No construction or improvements shall commence on any land proposed for development as a mobile home park prior to all the conditions of section 73.2 of this resolution being satisfied.

4. Approval of the site plan is good for six (6) months. If after six (6) months significant physical development has not been initiated on the site, approval shall be null and void. If the manufactured home park has not received a certificate of occupancy within twelve (12) months of approval, approval shall be null and void.

73.4.2. Previously existing manufactured home parks.

1. Conformity. All manufactured home parks existing on the effective date of this resolution are hereby declared to be nonconforming, and shall be allowed to continue to exist and operate. However, such manufactured home parks shall at all times conform to applicable minimum health and safety codes.

2. Expansion of existing manufactured home parks. A developer proposing to expand an existing manufactured housing park to include more home sites than are accommodated within such park at the time this resolution becomes effective, shall submit plans and specifications for such improvements to the zoning administrator for approval prior to initiating construction and improvements. Expansion, improvements, reconstruction, and/or redesign of existing parks shall conform to these regulations.

3. Class A or B manufactured homes may be admitted to any park. Class C homes in a park on the effective date of this resolution may remain within that park.

4. All manufactured homes fifteen (15) years or older from the date of the application will
not be permitted to be moved into the county.

5. RVs, travel trailers, and campgrounds may be exempt from any of the requirements of this section at the discretion of the zoning administrator if such requirements are seen to be a hardship on the developer.

73.4.1. Design requirements. Manufactured home parks shall conform to the following requirements:

1. Exterior setbacks. Manufactured home parks shall have privacy fencing or an approved vegetative buffer erected around the perimeter. Said fencing or buffer shall be at least six (6) feet high and shall be erected one hundred fifty (150) feet from, and parallel to, the centerline of all public roads adjoining the manufactured home park.

2. Interior setbacks. Manufactured homes and all accessory structures shall be located at a minimum of twenty-five (25) feet from the park's perimeter fencing. Manufactured homes shall be located at least twenty (20) feet from interior streets. Manufactured home stands shall be designed so as to provide a distance of at least forty (40) feet between manufactured homes.

3. Access. Manufactured home parks shall have frontage of at least two hundred (200) feet on a public road with a minimum lot width of at least two hundred (200) feet throughout the entire depth of the developed portion of the property. The manufactured home park shall also have at least two (2) access/exit points from adjoining public roads. If the manufactured home park abuts two (2) public roads, the access/exit point shall be from/to the public road with the lower traffic volume. The distance between these access/exit points as measured along the public roadway shall be in conformance with applicable state or county requirements, as appropriate. Every manufactured home site and assigned parking area shall have direct access to the internal street system, but shall not have direct access to any public road. The width and design of the access/exit drives shall be adequate to accommodate fire protection vehicles and equipment.

4. Community services. As part of the site plan review process, the developer may propose and the county may approve one (1) or more other structures for manufactured home park occupants, such as laundries, storage, garages, and a park leasing or management office. Any structure that draws its trade from outside park boundaries is prohibited.

5. Interior access roads, addresses, and signage. The road system within the manufactured home park shall be designed to meet the requirements of the county fire marshal and the traveling public to include the following:

   a. All interior roads shall be private but paved to county standards and constructed to provide access to all public safety equipment, especially fire apparatus.

   b. One-way interior roads shall be constructed with a minimum surface width of fourteen (14) feet, and shall be designated "no parking."
c. Two-way interior roads shall be constructed with a minimum surface width of twenty-four (24) feet and shall be designated "no parking."

d. Interior roads shall be clearly marked at each intersection with signs to identify traffic directions and space numbers served by the road.

e. Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed.

6. "Parking. A minimum of two (2) off-street parking spaces shall be assigned to each manufactured home stand. Two (2) additional parking spaces must be provided for every six (6) additional dwelling units to accommodate guests. The required front yard area may be used to satisfy the minimum parking requirement. Side and rear yards may not be utilized to satisfy the minimum parking requirements.

7. "Minimum number of spaces. A manufactured home park shall have a minimum of ten (10) spaces prepared with all required improvements in place before the park may be approved for occupancy.

8. "Density. A maximum of six (6) manufactured homes, with required spacing as specified herein, may be placed on any one (1) acre in a mobile home park.

9. "Length of occupancy. Neither a manufactured home nor manufactured home stand located in a manufactured home park shall be rented for a period of less than thirty (30) days.

10. "Decals. No manufactured home in a manufactured home park shall be occupied until the proper decal has been secured from and displayed in the manner prescribed by the county tax commissioner, and the appropriate HUD (Department of Housing and Urban Development) sticker is attached to the manufactured home.

73.4.2. Requirements for manufactured home spaces.

Design. Each manufactured home space shall be designed and constructed at such elevation, distance, and angle with respect to its access to provide for safe and efficient placement and removal of manufactured homes or recreational vehicles, as the case may be. Each manufactured home space shall be designed with no more than a five (5) percent gradient and compacted with appropriate material to support maximum anticipated loads during all seasons.

Width, depth, and size of spaces and markings. Each manufactured home space shall be at least fifty (50) feet wide and seventy-five (75) feet in depth. The minimum area for a manufactured home space shall be six thousand (6,000) square feet. The corners of each manufactured home space shall be clearly marked on the ground by permanent flush stakes, markers, or by other similar means.
Stands. Each manufactured home space shall be provided with a concrete pad of sufficient size to accommodate the typical manufactured home to be located within that space, and the pad should be large enough to accommodate a patio of at least one hundred eighty (180) square feet and also provide for the anchoring of the home to secure it against movement; provided, however, that any individual stand shall be no less than fourteen (14) feet by sixty (60) feet (and spaces intended to serve double-wide homes shall be at least twenty-four (24) feet by sixty (60) feet.

Use of spaces. No more than one (1) manufactured home or recreational vehicle shall occupy any individual space. Use of a mobile home or class C manufactured home, as defined in this resolution, shall not be permitted in the manufactured home park. Accessory uses and structures on individual spaces may be permitted, subject to compliance with the development standards provided in this resolution.

Space identification numbers. Manufactured home space numbers at least six (6) inches in height shall identify each space and shall remain readily identifiable while in use.

Additions and accessory structures. Decks, porches, outdoor storage, or other exterior additions may be constructed or erected on a manufactured home space, subject to the approval of the manufactured home park management. No such accessory structure shall be located closer than five (5) feet to a manufactured home space boundary.

73.4.3. Improvements. Manufactured home parks constructed, and expansions/enlargements made to existing manufactured home parks after the effective date of this resolution, shall be provided the following minimum improvements:

1. **Utilities.** The manufactured home park owner shall provide a method of sanitary sewerage collection and treatment, and a potable water supply system approved by the county health department. All sanitary sewer, water, and where used, gas lines, shall be placed a minimum of eighteen (18) inches below the site's finished grade level. Electrical service lines, likewise, shall be placed underground. The water system shall be equipped with adequate valve systems to allow the cutoff of utility service to a manufactured home stand at the manufactured home stand and at the entrance of the utility service from the stand to the trunk line of the utility system.

2. **Easements.** Publicly dedicated easements of proper size for their respective, intended purposes shall be provided within the park if individual manufactured home stands and accessory park uses are to be serviced by a public utility system.

3. **Lighting.** All recreation areas, park entrance/exits, interior streets, and walkways shall be illuminated to provide at least three-tenths (0.3) foot-candles of lighting.

4. **Garbage and refuse.** Each manufactured home park shall provide fenced and paved garbage and refuse collection pads at locations convenient to each manufactured home space that conform to all applicable county solid waste ordinances.

5. **Walkways.**
a. **General requirements.** All manufactured home parks shall be provided with convenient, pedestrian walkways of adequate width to provide for pedestrian safety. Walkways shall be durable and well maintained.

b. **Common walkway system.** A common, paved, walkway system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3.5) feet.

c. **Individual walkways.** All manufactured home stands shall be connected via individual walkways to common walkways, or to interior streets, or to driveways or parking spaces reserved for the manufactured home stand. Such individual walks shall have a minimum width of two (2) feet.

6. **Manufactured home stands.** Each manufactured home stand shall be required to be provided with the following minimum accommodations:

   a. **Interior street access.** Each stand shall be provided with interior street frontage of at least twenty (20) feet.

   b. **Electric power supply.** Each stand shall be provided with a properly grounded, waterproofed, electrical receptacle. A properly sized over-current device shall be installed as part of each power outlet. Said fixtures shall meet the standards established by applicable county or state codes.

   c. **Stand identification.** A property and street number designation or other appropriate numbering device properly identifying each manufactured home stand shall be placed at the interior side lot line at a point ten (10) to fifteen (15) feet from the interior road system to the park. Such device shall be clearly visible from the street and shall be embossed with reflectorized glaze for the numbers. Such numbers shall be a minimum of six (6) inches in height.

7. **Recreation.** A minimum of twenty-five (25) percent of the site area shall be open space and recreational area, including the required perimeter buffer or landscape screen. A minimum of eight (8) percent of the total site area, counted as part of the required twenty-five (25) percent site area that is open space and recreation area shall be devoted to one (1) or more active recreation facilities such as a swimming pool.

73.5. **Accessory uses permitted.** The following establishments of a commercial nature may be permitted as customary accessory uses in a manufactured home park, provided that such uses do not occupy more than ten (10) percent of total park area, are located a minimum distance of one hundred (100) feet from any adjoining property line or street right-of-way, and are primarily intended for the convenience of and service to occupants of the manufactured home park:

   a. Coin-operated laundry.
b. Coin-operated vending machines of the type allowed under applicable county codes.

c. One (1) or more signs that identify the name of the park and/or service(s) provided park residents, regulate traffic, or provide for the convenience and welfare of park residents. Such signs shall not be placed within the county road right-of-ways.

73.6. Other requirements.

Additions. Any addition to a manufactured home or accessory building shall comply with applicable requirements of the building, electrical, plumbing, and gas codes.

Foundations. All residential and accessory buildings shall be placed on properly engineered foundations that meet applicable installation requirements and applicable state and local codes.

Siding material. All manufactured homes shall have exterior siding materials consisting of wood, masonry, concrete, stucco, hardboard siding, or metal lap. The exterior siding material shall extend to ground level, except that when a solid concrete or masonry perimeter foundation (under-pinning) is used, the siding material need not exceed below the top of the foundation.

Tie-down. All manufactured homes shall be secured to their respective sites in accordance with applicable state codes.

Certificate of occupancy. Satisfactory compliance with all permitting and inspection requirements shall be achieved before the certificate of occupancy is issued.

Covered porch or deck. A covered porch, deck, or entry way at least four (4) feet by six (6) feet shall be added to each entrance of the manufactured home prior to occupancy. The roofing material of the covered porch, deck, or entry way must be the same as that of the manufactured home.

73.7. Permitted uses. The following uses are permitted within the R-M district:

a. Manufactured home parks.

b. Garage or yard sales.

c. Home occupations.

d. Class A and class B manufactured homes on individual lots fifteen (15) years or older from the date of the application would not be allowed to come into the county.

e. Accessory buildings and uses customarily incidental to any use allowed as a permitted or conditional use and located on the same lot as the primary structure or use.

f. Gardening on land of one (1) acre or less, when not otherwise existing as an accessory use. A certificate of zoning compliance is not required for this use.
g. Swimming pools and tennis courts.

73.8. **Conditional uses.** The following may be allowed as conditional use in an R-M district:

a. Churches and other places of worship, with attendant educational and recreational buildings, provided such buildings shall be placed not closer than fifty (50) feet from any property line.

b. Day care homes.

c. Public and private schools, colleges, and libraries, excluding business or trade schools.

d. Public utility structures and buildings, not including radio and television transmission stations and electric generating plants, provided the installation is properly screened from surrounding uses. No office shall be permitted, and no equipment shall be stored on the site.

e. Public or privately owned and operated golf, swimming, tennis, or country clubs, community clubs or associations, athletic fields, parks, and other similar recreational areas, provided that no building for such proposed use is located within one hundred (100) feet of any property line.

f. Other public buildings and uses.

g. Temporary uses, including sale of Christmas trees, carnivals, bazaars, the sale of seasonal fruits or vegetables from roadside stands, and tent revivals.

h. Family personal care homes.

i. Home businesses, pursuant to the provisions of section 85 of this resolution.

**Section 74. C - commercial district.**

74.1. **Intent of district.** This district is established to provide for retail business and other commercial uses.

74.2. **Dimensional standards.** If a public water supply is not used, the minimum lot size in a C district shall be one (1) acre, and the minimum lot width shall be one hundred fifty (150) feet. If a public water supply is used, the minimum lot size in a C district shall be one-half acre and the minimum lot width shall be one hundred (100) feet. All buildings must be set back ten (10) feet from any road and fifty (50) feet from any property line in a residential or agricultural/rural district with either an evergreen buffer or an approved screening fence.

74.3. **Permitted uses.** The following uses are permitted within a C district:

a. Any permanent retail or commercial use in which there is no processing or treatment of materials, goods, or products.

b. Any permanent retail or commercial use that engages in the onsite processing of food items for
sales and consumption, with the exception of slaughter houses as defined in this resolution.

c. Funeral homes, mortuaries, and crematories.
d. Hospitals, sanitariums, and clinics.
e. Bakeries.
f. Unless otherwise stated within this resolution, any permitted use in an A district, except cemeteries and temporary occupancy of a site by recreational vehicles for recreational purposes.
g. Unless otherwise stated within this resolution, any conditional use in an A district, except airplane landing fields and helicopter ports.

h. Florists and plant nurseries.
i. Farm and garden stores.
j. Photographic studios.

k. Jewelry, shoe, and appliance repair shops.
l. Print or copy shops.
m. Outdoor advertising signs.

n. Ambulance services.
o. Restaurants and delicatessens, including those with "drive-thru" facilities.
p. Restaurants that serve liquor as long as fifty (50) percent of sales are from food.

q. Office supply stores.
r. Furniture and home furnishing stores.
s. Business and trade schools.
t. Car washes.

u. Bottling works for soft drinks.
v. Professional and business offices.
w. Indoor recreational or amusement facilities, including gymnasiums and health clubs, bowling alleys, billiard halls, and amusement arcades, with the exception of a concentrated outdoor
commercial recreation facility as defined in this resolution.

x. Any establishment that sells or services the following: Automobiles, boats, recreational vehicles, farm equipment and implements, or manufactured homes.

y. Milk bottling and distribution and ice cream manufacturing.

z. Self-storage warehouses.

aa. Dry cleaning and commercial laundry establishments.

bb. Theaters, auditoriums, and assembly halls.

c. Radio and television broadcasting studios.

d. Telephone offices, communications centers, and telecommunications towers.

e. Bus and railroad terminal facilities.

f. Shopping centers containing permitted uses in a C district.

g. Commercial parking garage or lot.

h. Accessory buildings and uses.

i. Electrical, heating, and plumbing supply stores.

j. Automotive part and supply stores.

k. Outdoor entertainment facilities, including stadiums, theaters, drive-in theaters, and concert facilities.

l. Garage or yard sales.

m. Appliance stores, including those that provide repair services.

n. Home repair supply stores.

o. Dressmaking and tailoring shops.

p. Rental services establishments.

q. The sale of seasonal fruits or vegetables from roadside stands.

r. Temporary uses, including sale of Christmas trees, carnivals, bazaars, and tent revival.
ss. Public utility structures and buildings, which may contain offices and storage facilities, but not including electric generating plants, providing the installation is properly screened as required in section 84 of this resolution.

74.4. Conditional uses. The following uses may be allowed as conditional uses in a C district:

a. Uses similar in character to those allowed as permitted uses in a C district.

b. Food locker plants.

c. Motels, hotels, and B&Bs.

d. Nightclubs that sale beer and wine only, not liquor.

e. Adult entertainment establishments.

f. Campgrounds.

g. Halfway houses, drug rehabilitation establishments and other similar uses. (The notice period for this type of rezoning is at least six (6) months but no more than nine (9) months with the notice being published in the legal organ of the county but not in the classified section (O.C.G.A. § 36-66-4)).

Section 75. C-1 - highway-oriented commercial district.

75.1. Intent of district. This district is established to encourage the orderly development of areas containing uses related to motor vehicles, generating heavy vehicular traffic, or serving the traveling public. This district is intended for those areas located at or near junctions of or access points to major thoroughfares. The promotion of "strip" commercial development is not intended.

75.2. Required conditions. All sales, business, or processing shall be conducted within a completely enclosed building, except where the nature of the activity is such that said activity must be conducted outside of a completely enclosed building. An exception to this regulation may be considered as a conditional use where its enforcement would create an unreasonable hardship.

75.3. Dimensional standards. The minimum lot size in a C-1 District shall be one (1) acre, and the minimum lot width shall be one hundred fifty (150) feet from the building site. All buildings must be set back ten (10) feet from any street and fifty (50) feet from any residential or agricultural/rural district with either an evergreen buffer or an approved screening fence.

75.4. Permitted uses. The following uses are permitted within a C-1 district:

a. Automobile service stations and sales of motor fuels in connection with another use provided the requirements of section 85 are met.

b. Car washes, provided that a paved area shall be located on the same lot equal to one-third (1/3)
the number of cars practically accommodated by any washing machinery, excluding hand-held sprayers, times two hundred (200) square feet. In addition, a maximum of two (2) curb breaks, each no wider than thirty (30) feet and no closer than one hundred twenty (120) feet to a street intersection.

c. Any establishment that sells or services the following: Automobiles, boats, recreational vehicles, farm equipment and implements, or manufactured homes, provided any repair or servicing must be conducted within a structure which shall not have any opening, other than a stationary window or door for pedestrian ingress or egress, within one hundred (100) feet of any residential district, and provided further that all vehicles on a used car sales lot shall be in operating condition at all times.

d. Restaurants and delicatessens, including those with "drive-thru" facilities.

e. Office supply stores.

f. Farm and garden supply stores.

g. Grocery, convenience, and fruit and vegetable stores, meat markets, delicatessens, and supermarkets.

h. Theaters, auditoriums, and assembly halls, not including drive-in theaters.

i. Indoor recreational or amusement facilities including gymnasiums and health clubs, bowling alleys.

j. Bus and railroad terminal facilities.

k. Automobile, truck, trailer, and equipment rentals.

l. Professional office buildings.

m. Electrical, heating, and plumbing supply stores.

n. Automotive part and supply stores.

o. Appliance stores, including those that provide repair services.

p. Home repair supply store.

q. Garage or yard sales.

r. Accessory buildings and uses customarily incidental to any use allowed as a permitted or conditional use and located on the same lot as the main structure or use, provided the requirements of section 84 of this resolution are met.
s. Wholesale warehouses.

t. Truck terminals, provided that they are not located adjacent to residential uses and that acceleration and deceleration lanes of at least two hundred (200) feet in length are provided for trucks entering and leaving the site.

75.6. Conditional uses. The following uses may be allowed as conditional uses in a C-1 district:

a. Unless otherwise states within this resolution, any use permitted in a C district.

b. Motels, hotels, and B&Bs with the exception of halfway houses, prison or penal institutes

Section 76. I - industrial district.

76.1. Intent of district. This district is established to provide for wholesale, industrial, and manufacturing uses.

76.2. Dimensional standards. The minimum lot size in an I district shall be one (1) acre, and the minimum lot width shall be one hundred fifty (150) feet at the building site. Any building must be set back fifty (50) feet from any street and from any other zoning district.

76.3. Permitted uses. The following uses are permitted in an I district:

a. Wholesale and storage warehouses and distribution centers.

b. Agriculture, forestry, livestock, and poultry processing, provided that the operation is conducted on a tract of land not less than ten (10) acres of land in area, and that no structure containing poultry or swine and no storage of manure or odor- or dust-producing substance or use shall be located within one hundred (100) feet of a property line.

c. Class A or class B manufactured homes or other single-family dwellings for the exclusive use of a watchman or caretaker.

d. Auto auctions.

e. Retail uses selling products manufactured on the premises.

f. Appliance stores, including repairs and storage.

g. Accessory buildings or uses.

h. Unless otherwise stated within this resolution, any use that is permitted in the C and C-1 districts.

76.4. Conditional uses. The following uses may be allowed as conditional uses in an I district:

a. Churches and other places of worship and attendant educational and recreational buildings.
b. The manufacturing, processing, fabrication, repair, and servicing of any commodity or product subject to the following conditions:

i. Any such use as determined by the zoning enforcement officer that may be obnoxious or offensive by reason of the emission of odors, dust, smoke, gas, noise, or vibration shall be referred to the environmental protection division of the state department of natural resources; and

ii. Prior to the issuance of a preliminary or final certificate of zoning compliance, the applicant shall provide the zoning enforcement officer with written approval of the nature, plans, and specifications of the said use from the environmental protection division of the state department of natural resources; and

iii. All other requirements within the district in which these industrial activities can be located shall be met.

c. Outdoor entertainment facilities, including stadiums, theaters, drive-in theaters, and concert facilities.

d. Theaters, auditoriums, and assembly halls.

e. Outside above ground storage tanks greater than five hundred (500) gallons for gasoline, liquefied petroleum gas, oil or other inflammable liquids or gases, provided that facilities used for storage of inflammable liquids or gases are located not less than two thousand (2,000) feet from any other zoning district.

f. Junkyards and automobile wrecking yards, not facing a state or federal highway.

g. Other public buildings or uses.

h. Municipal solid waste landfills, provided that they are located on a parcel of land no less than five hundred (500) acres in size.

i. Development of natural resources, including the removal of minerals and natural materials.

j. Concentrated commercial outdoor recreation facilities.

k. Any use which is prohibited under the Official Code of Georgia Annotated, chapter 8 (waste management), title 12 (conservation and natural resources), without the user obtaining a permit from the director of the environmental protection division of the state department of natural resources. The above reference to chapter 8, title 12 of the Official Code of Georgia refers to said code provisions as are currently in force at the time of the adoption of this amendment to the zoning resolution for the unincorporated area of the county.

l. Adult entertainment establishments.
Section 77. PD - planned mixed-use development district.

77.1. Intent of district. This district is established to:

a) Allow and encourage more unique, flexible, creative, and imaginative arrangements and mixes of land uses in site planning and development than are permitted through conventional land use requirements.

b) Encourage a broader mix of residential housing types, including detached and attached dwellings, than would normally be constructed in conventional subdivisions.

c) Allow and encourage the development of tracts of land as single developments that are planned neighborhoods or communities, including civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community.

d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments.

e) Provide for the more efficient use of land through clustering and other flexible, innovative development arrangements that will result in smaller networks of utilities and streets and thereby lower development and housing costs.

f) Provide a more desirable living environment than would be possible through the strict application of conventional requirements.

g) Provide for slightly higher gross and net development densities and intensities as an inducement to develop in a manner consistent with the purposes of this resolution.

77.2. General regulation standards and requirements. Any property proposed for development as a planned mixed-use development shall be at least ten (10) acres in size, with twenty (20) percent of the total acreage devoted to open space, including active or passive recreation. All land included for the purpose of development within a planned unit development shall be owned or under the control of the applicant, whether the applicant is an individual, partnership, or a corporation.

The standards and requirements of this resolution may be modified in the case of a planned mixed use development that does not conform to the county subdivision regulations. Any development plan submitted for a planned mixed use development must, in the opinion of the county planning commission, provide adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, provided zoning density standards for the entire tract are not exceeded, and which also provides such covenants or other legal procedures as will assure conformity to and achievement of the plan.

Plans for such developments shall be submitted to and approved by the county planning commission. No building permits shall be issued until such approval has been granted. If rezoning is required, plans for such developments shall be reviewed or approved by the county planning commission before the site has been
rezoned to allow such use.

If revisions to an approved development plan are requested, the revised development plan will be subject to the same approval procedures as an original development plan.

Setbacks from residential uses in a PUD must follow the setbacks in the residential district. Setbacks for commercial uses in a PUD must follow the setbacks in the commercial district. Any variance to the ordinance must be advertised as outlined in section 94.

77.3.  Permitted uses. The permitted uses of property located in a PD district shall be proposed by the development applicant and approved at the time the development plan is approved if the proposed uses are consistent with the county comprehensive plan, the mix of land uses is appropriate in character and location, and the development plan meets the criteria for approval specified in section 77.2 of this resolution.

ARTICLE VIII.

SPECIAL PROVISIONS

Section 81. Manufactured homes and manufactured home parks.

The following regulations shall apply to all manufactured homes and to all manufactured home parks within the unincorporated area of the county:

81.1.  Classification of manufactured homes. All manufactured homes shall be placed into one (1) of the following classifications:

1.  Class A manufactured homes are manufactured or mobile homes constructed on or after June 15, 1976 that meet or exceed the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and satisfy each of the following additional criteria:

   a.  The home has a width at its narrowest point, when placed on site, of at least eighteen (18) feet.

   b.  The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.

   c.  The exterior siding consists of wood, hardboard, vinyl, or aluminum, which may be vinyl coated or painted, but in no case exceeding the reflectivity of gloss white paint, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

2.  Class B manufactured homes are manufactured or mobile homes constructed on or after June 15, 1976, that meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of
construction but that do not satisfy the criteria necessary to qualify the home as a class A manufactured home.

3. Class C manufactured homes are manufactured homes that do not meet the definitional criteria of a class A or class B manufactured home.

81.2. General standards for manufactured homes on individual lots. Manufactured homes on individual lots, in a residential district where allowed as a permitted or conditional use, shall meet the following additional requirements, except as otherwise provided herein:

1. The manufactured home must be supported by a permanent foundation, and must be enclosed under all exterior walls by continuous, permanent masonry materials, unpierced except for required ventilation and access, within sixty (60) days of building permit.

2. The manufactured home shall be connected to an approved water supply and sewage disposal systems and must meet any other applicable local, state, or federal requirements for the home and any external utility installations.

3. The tongue, axles, transporting lights, and any removable towing apparatus shall be removed from the manufactured home after placement on the lot and before occupancy.

4. A set of permanent steps shall be provided where necessary for access to and from each exterior door on the manufactured home.

5. All manufactured home in all zoning districts must be underpinned within sixty (60) days of the issuance of a building permit. All manufactured homes in an agricultural district shall be underpinned with manufactured vinyl or aluminum skirting or masonry.

6. All class C mobile home manufactured before June 15, 1976 that are presently in the county require a conditional use zoning permit to move within the county.

7. All class A, B, C, mobile homes that were manufactured fifteen (15) years before zoning application date that are presently in the county would require a conditional use zoning permit to be moved within the county.

81.2.1. Temporary use of manufactured homes. One (1) manufactured home may be used on a temporary basis in the following cases. All such units shall meet all other local, state, and federal requirements that may apply.

One (1) manufactured home or similar mobile structure designed for other than residential purposes may be used in any district as a temporary office, security shelter, or shelter for materials or tools incidental to construction or development on the same lot. A single manufactured home or similar mobile structure may be used as a temporary residence during construction in any zoning district. These uses require a certificate of zoning compliance and are permitted for a period not to exceed six (6) months, unless the zoning enforcement officer finds that actual construction is continuing.
Section 82. Reserved.

Section 83. Additional dwellings on a single lot.

The zoning officer has the power to approve an application for an additional single-family dwelling on the same lot or parcel of land if he or she sees fit, subject to the following additional provisions:

1. **Zoning district requirement.** The main dwelling is located in an A or R district.

2. **Lot and yard requirements.** Each additional dwelling conforms to the development standards for the district in which it is located.

3. **Arrangement.** The arrangement of such additional dwelling is in such manner that, if the lot or parcel is ever subdivided, no substandard lots or nonconforming buildings are created.

4. **Total number of units.** No more than two (2) units on a single lot shall be permitted, with the exception of tenant dwellings. There shall not be the placement of a tenant dwelling if there is no pre-existing pad or previous dwelling there.

Section 84. Temporary and accessory buildings and uses.

84.1. **Temporary buildings in conjunction with construction.** Except as provided in section 81.2.1 of this resolution, temporary buildings used in conjunction with construction work only may be permitted in any district and shall be removed immediately upon the completion of construction. Such buildings shall also be removed in the event that construction is suspended for a period greater than six (6) months.

84.2. **Other temporary buildings and uses.** The following requirements shall apply to all temporary uses located in an R district:

1. No carnival or bazaar not held within a completely enclosed building shall be located within five hundred (500) feet of any dwelling used for residential purposes.

2. All public address system equipment shall be located within a tent or other structure containing the temporary use.

84.3. **Accessory buildings (storage buildings) and uses.** No accessory building or storage building can be a manufactured home, see section 32 of this resolution for definition of a manufactured home. The location of accessory buildings and uses in any district shall meet the following requirements:

1. All detached accessory buildings and any accessory uses may not be located closer than six (6) feet from any property line.

Accessory buildings in a residential district shall meet the following requirements:

1. Where an accessory building is attached to the main building, a substantial part of one (1) wall of
the accessory building shall be an integral part of the main building, and such accessory building shall be attached to the main building in a substantial manner by a roof.

All private home swimming pools shall be considered accessory uses. Home swimming pools shall be located no closer than ten (10) feet from any property line and be enclosed by fencing at least four (4) feet in height.

Section 85. Home businesses and occupations.

Home businesses, where permitted, require a conditional use permit and are subject to the following requirements:

1. **Ownership of property.** The applicant must be the owner of the property on which the home business is to be located or have written approval from the owner of the property.

2. **Persons operating the home occupation or business.** The home occupation or business shall be operated only by occupants of the residence, and no article or service shall be sold or offered for sale except as may be produced by occupants of the residence.

3. **Location and size.** The home occupation or business shall be restricted to the main building only and shall not occupy more than twenty-five (25) percent of the floor area within said building.

4. **Impacts on surrounding area.** No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to a greater or more frequent extent than that usually experienced in an average residential occupancy. No structural alterations may be made to a residence that shall alter or detract from its residential appearance or, likewise, alter or detract from the residential appearance of the surrounding area. For a home occupation, no on-premise retail sales shall be conducted. On-premise retail sales will be allowed for home businesses.

5. **Expiration.** A conditional use permit for a home business shall expire whenever the applicant ceases to occupy the premises in which the home occupation is conducted or whenever the home occupation is discontinued for a period of six (6) consecutive months.

Section 86. Automobile service stations.

Within the districts permitting automobile service stations, the following requirements shall apply:

1. **Location.** The property on which an automobile service station is located shall not be within one hundred (100) feet of any residential district or any property containing a school, public playground, church or place of worship, hospital, public library, or institution for children or dependents.

2. **Site requirements.** An automobile service station shall have a minimum frontage on the primary street of one hundred fifty (150) feet and a minimum area of twelve thousand (12,000) square feet. All buildings shall be set back forty (40) feet from all street right-of-way lines and all
canopies shall be set back fifteen (15) feet from all street right-of-way lines.

3. **Access to site.** Vehicular entrances or exits at an automobile service station shall conform to the following requirements:
   
a. There shall be no more than two (2) curb cuts for the first one hundred twenty (120) feet of street frontage or fraction thereof, plus no more than one (1) additional curb cut for each additional one hundred fifty (150) feet of street frontage, or fraction thereof.

   b. Vehicular entrances or exits shall contain an access width of not more than forty (40) feet as measured parallel to the street at its narrowest point and shall not be located closer than twenty (20) feet to a street intersection or closer than ten (10) feet to adjoining property.

   c. Curb cuts or driveways shall be not closer than one hundred twenty (120) feet from each other at both the right-of-way line and the curb or the edge of the pavement along a single street.

4. **Gasoline pump islands.** All gasoline pump islands shall be set back at least fifteen (15) feet from the right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line. Where pump islands are constructed perpendicular to the right-of-way line, this setback requirement shall be increased to thirty (30) feet. All pumps shall be at least fifty (50) feet from the centerline of any street.

5. **Storage of inflammable products.** Outside aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil, or other inflammable liquids and gases shall be contained in a secured location away from any other flammable materials.

Section 87. Telecommunications towers and antennae.

87.1. **Purpose.** The purpose of this section is to provide zoning classification requirements for the siting of all wireless, cellular, television and radio telecommunications towers and antennae; to encourage the location of towers in nonresidential areas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of the unincorporated areas of the county; to encourage the joint use of new and existing tower sites among service providers; to locate telecommunications towers and antennae in areas where adverse impacts on the community are minimized; to encourage the design and construction of towers and antennae to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

87.2. **Definitions.** Words not defined herein shall be construed to have the meaning given by common and ordinary use and shall be interpreted within the context of the sentence and section in which they occur. Words used in the singular include the plural, and words used in the plural include the singular. Words used in the present tense include the future tense. The word "erected" includes the words "constructed," "located" or "relocated." The word "map" or "zoning map" means the zoning maps of the county. The word "parcel" includes the word "plot" or "lot." The word "person" includes the words "individuals," "firms," "partnerships,"
For the purpose of this section, certain terms used herein shall be defined as follows:

**Administrator** means the administrative official responsible for the county zoning department.

**Alternative tower structure** means clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on-premises signs, outdoor advertising signs, water storage tanks, and similar natural or manmade alternative-design mounting structures that camouflage or conceal the presence of antennae or towers.

**Antenna** means any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

**Co-location** means the placement of the antenna of two (2) or more service providers upon a single tower or alternative tower structure.

**Department** means the county zoning department.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communications Commission.

**Geographic antenna placement area** means the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.

**Governing authority** means the board of commissioners of the county.

**Height**, when referring to a tower or other structure, means the distance measured from ground level to the highest point on the tower structure or appurtenance.

**Pre-existing towers and antennae** means structures as set forth in section 86.3.4 of this section.

**Scenic views** means those geographic areas containing visually significant or unique natural features, as identified in the Forsyth-Monroe County Comprehensive Plan.

**Tower** means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antenna, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.

**Visual quality** means the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.
87.3. **Applicability.**

87.3.1. **Location.** Except as set forth in 86.3.3. herein, the provisions, requirements and limitations of this section shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction of the governing authority. The provisions, requirements and limitations of this section shall only apply to wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction of the governing authority. In addition, any provisions, requirements or limitations contained in other articles of the zoning ordinance of the county, which conflict in any way with the administration of this section or the provisions, requirements or limitations of this section shall be inapplicable.

87.3.2. **Governmental exemption.** Except as otherwise specifically provided for in this section, the provisions of this section shall not apply to the governing authority's properties, facilities or structures. Private facilities and structures placed upon the governing authority's property shall be governed by a lease agreement between the governing authority and the provider.

87.3.3. **Amateur radio; receive-only antennae.** This section shall not govern any tower, or the installation of any antenna, that is seventy-five (75) feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one (1) such tower or antenna per residence shall be excluded from this section.

87.3.4. **Pre-existing towers and antennae.** Any tower or antenna for which a permit has been properly issued prior to the effective date of this section shall not be required to meet the provisions of this section, other than sections 87.4.11, 87.4.5.f, and 87.4.13; and the requirements of sections 87.4.5 (except subsection 87.4.5.f, 87.4.7 and 87.4.8) within six (6) months from the date of adoption of this section. Any such towers or antennae shall be referred to in this section as "pre-existing towers" or "pre-existing antennae." Provided, however, that the placement of antennae on any nonconforming structure shall not create a vested right for the continued use of the structures should the nonconforming use cease.

If an additional antenna is co-located upon a pre-existing tower after adoption of this section, then the requirements of section 87.4.5 (except subsection 87.4.5.f, 87.4.7 and 87.4.8) shall be met as part of the permitting process.

87.4. **General provisions.**

87.4.1. **Principal or accessory use.** A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structures and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structures. An existing use or structure, on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not limited to setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or
tower may be located on a leased area within such lot or parcel. Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use of structure.

87.4.2. Five-year plan and inventory of existing sites. To facilitate the co-location of antennae and future land use planning, each applicant seeking to locate a new tower, alternative tower structure or antenna, or modify any such existing structure, shall provide to the department an inventory of its existing towers or alternative tower structures, existing towers or alternative structures to be upgraded or replaced, and proposed towers or alternative structures. Applicants seeking to erect an amateur radio or antenna shall be exempt from this provision.

a. The inventory shall include all such structures that are within the jurisdiction of the governing authority, within a municipality located, in whole or in part, within the City of Forsyth; or within a neighboring county which is currently capable of providing coverage or capacity within the county, and shall include specific information about the location (latitude and longitude coordinates), height, design, tower type and general suitability for antenna co-location of each tower or alternative structure, and other pertinent information as may be required by the department.

b. If the applicant does not know specific future tower and antenna site locations but does know of areas where telecommunications facilities will be needed within the next five (5) years to provide service, the applicant shall list the assessor's blocks contained within the geographic service area and identify each geographic service area with a number that will correspond to the future telecommunication facility site.

c. The department may share the location of existing telecommunication facility sites with other applicants seeking to locate towers or antennae within the jurisdiction of the governing authority; provided, however, that the department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

87.4.3. Co-location; design requirements. In addition to all applicable building and safety codes, all towers, except amateur radio towers, shall be designed to accommodate the co-location of cellular telecommunication antennae according to the following:

a. For towers up to one hundred and fifty (150) feet in height, the structure and fenced compound shall be designed to accommodate at least three (3) providers or the maximum number of users as determined by the most current technology, whichever is greater;

b. For towers greater than one hundred fifty (150) feet in height, the structure and fenced compound shall be designed to accommodate at least four (4) providers or the maximum number of users as determined by the most current technology whichever is greater.

87.4.4. Co-location; availability of suitable existing structures. No new tower, except amateur radio towers, shall be permitted unless the applicant demonstrates to the satisfaction of the department and governing authority that no existing tower or existing alternative tower structure can
accommodate the applicant's proposed antenna. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna shall consist of one (1) or more of the following:

a. That no existing towers or suitable alternative tower structure are located within the geographic antenna placement area required to meet the applicant's engineering requirements;

b. That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;

c. That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment;

d. That the applicant's proposed antenna would cause electromagnetic interference with the antenna(e) on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;

e. That the cost or contractual provisions required by the tower owner to share an existing tower or structure or to adapt an existing tower or structure for sharing exceed the cost of new tower development;

f. That the applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable, other than economic reasons;

g. That the applicant adequately demonstrates no county-owned or operated sites or existing structures are suitable for tower location.

87.4.5. Aesthetics. The guidelines set forth in this section shall govern the design and construction of all towers, and the installation of all antennae, governed by this section and shall be approved by the administrator.

a. Towers and/or antennae shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
c. For antennae installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.

d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. The lighting shall be dimmed or changed to red lights from the sunset to sunrise.

e. No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within the county.

f. To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.

g. Access to the tower site shall be restricted so as to minimize visibility of the access. Where possible, existing roads shall be used. Where no roads exist, access shall follow the existing contours of the land.

h. Such other additional requirements as the administrator shall reasonably require to minimize the visual impact of the site on the surrounding area.

87.4.6. Setbacks and separation. The following setbacks and separation requirements shall apply to all towers:

a. Towers shall be set back a distance equal to the height of the tower from its base to any public right-of-way, occupied structure, or property line of the lot or parcel containing the tower.

b. Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.

A tower located in any residential district shall not be located closer than two thousand (2,000) feet to any existing tower, regardless of the district in which the existing tower is located. This requirement shall not apply to amateur radio towers.

87.4.7. Security fencing/anti-climbing devices. All towers and supporting equipment shall be enclosed by fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternative.

87.4.8. Landscaping. The following requirements shall govern landscaping surrounding all towers:

a. Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials that effectively screens the view of the tower.
compound. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound.

b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed and vegetation to be replanted to replace the lost.

c. Landscaping shall be maintained by the provider and shall be subject to periodic review by the administrator to assure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this section.

Amateur radio towers and antennae, or receive-only antennae shall not be subject to the provision of this section unless required by the governing authority through the special use permit process.

87.4.9. Maintenance impacts. Equipment at a transmission facility shall be automated to the greatest extent possible, to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street, utilizing existing access to the property on which facility is to be located, where possible.

87.4.10. Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this section shall bring such tower and/or antenna into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall require removal of the tower or antenna at the owner's, permittee's, or lessee's expense. The county may seek injunctive and compensatory relief in a court of competent jurisdiction.

87.4.11. Building codes; safety standards. To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have fifteen (15) days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within fifteen (15) days shall require removal of the tower at the owner's, permittee's, or lessee's expense. The county may seek injunctive and compensatory relief in a court of competent jurisdiction.
87.4.12. **Change of ownership notification.** Upon the transfer of ownership of an interest in any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the department of the transaction in writing within thirty (30) days.

87.5. **Application procedures.**

87.5.1. **General application requirements.** Application for a permit for any telecommunication facility shall be made to the department by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The administrator is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under section 86.5.2 of this section, the following information shall be submitted when applying for any permit required by this section and must be submitted for an application to be considered complete:

a. Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.

b. Landscaped plan to scale indicating size, spacing and type of plantings required in section 87.4.8.

c. A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.

d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.

e. Report from a professional qualified engineer licensed in the state or other appropriate qualified industry expert, documenting the following:

1. Tower or antenna type, height, and design;

2. Engineering, economic, and other pertinent factors governing the selection of the proposed design.

3. Total anticipated capacity of the telecommunications facility, including numbers and types of antennae which can be accommodated;

4. Evidence of structural integrity of the tower or alternative tower structure;

5. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris; and
6. Certification that the antenna(e) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

f. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network (i.e., whether such antenna or tower is needed for coverage or capacity).

g. If the proposed site is zoned R-residential, applicants must describe why an alternate site zoned commercial, agricultural, or industrial was not proposed by identifying:

1. What good faith efforts and measures were taken to secure such an alternate site;

2. Why such an alternate site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and

3. How and why the proposed site is essential to meet service demands for the geographic service area.

The department will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The department shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

h. The applicant must provide a utilities inventory showing the locations of all water, sewage, and drainage and power line easements impacting the proposed tower site.

i. The applicant must provide any other information that may be requested by the department to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

87.5.2. Tower co-location information submittals. Any person or entity co-locating an antenna or antennae which will add no more than ten (10) feet to the height of the tower and related equipment or appurtenances on or around a tower for which a permit has already been issued shall submit the following information only:

a. The name or entity co-locating the antenna.

b. The name of the owner of the tower.

c. The tower's permit number.
The location of the tower.

The remaining structural capacity of the tower.

Certification that the antenna(e) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

87.7. **Conditional use permit required.**

87.7.1. **General.** If the proposed location, height, setback or other aspect of a proposed tower or antenna cannot comply with the minimum requirements established in this section, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district. All such uses shall comply with requirements set forth in this section and all other applicable codes and ordinances, unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.

In granting a conditional use permit, the governing authority may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties as set out in section 87.7.6 and may grant variances to the development restrictions required by this chapter or any other ordinance provided such variances do not have a negative effect upon surrounding property.

87.7.2. **Application; contents; fee.** All applications for conditional use permits shall be submitted to the county zoning department. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 87.5. An application for a conditional use permit shall not be accepted for processing without the information required in section 87.5. An application fee shall be charged by the department in the amount stated in section 87.10.

87.7.3. **Co-location of antennae required.** Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available as set forth in section 87.4.4 contained herein.

87.7.4. **Independent expert review.** The governing authority may engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a special use permit and render an opinion regarding any concerns about the proposal, including but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the governing authority shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be
allowed a reasonable amount of time, not to exceed thirty (30) days, following the receipt of the letter, in which to modify the application to alleviate the governing authority's concerns or to require consideration of the application by the governing authority despite such concerns.

87.7.5. Procedures. The procedures required for consideration of an application for rezoning of property in the county zoning ordinance shall apply to the consideration of an application for a special use permit under this section.

87.7.6. Considerations in approval or denial of conditional use permits or variances. Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The following factors may be taken into consideration in acting upon a special use permit application under the provisions of this section:

a. The height and setbacks of the proposed tower or antennae;

b. The proximity of the tower or antennae to residential structures and residential district boundaries;

c. The nature of uses on adjacent and nearby properties;

d. The surrounding topography;

e. The surrounding tree coverage and foliage;

f. The design of the tower or antennae, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. The proposed ingress and egress;

h. The availability of suitable existing towers or other structures for antenna co-location;

i. The impact of the proposed tower or antennae upon scenic views and visual quality of the surrounding area;

j. The needs of the applicant as balanced against the detrimental effects on surrounding properties;

k. The impact of the proposed tower or antennae on adjacent and nearby properties.

87.7.7. Requirements for issuance of conditional use permit. The special use permit may be issued by the governing authority only upon satisfaction of the following requirements:

a. The proper application filed in accordance with the requirements of section 87.5;

b. The application is otherwise in compliance with the conditions for the proposed special
use required by this section;

c. The applicant complies with the conditions proposed by the governing authority for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with surrounding uses;

d. The governing authority determines that the benefits and need for the proposed special use are greater than any possible depreciating effects or damages to neighboring or nearby properties; and

e. All fees, including expert fees, have been paid in full.

87.7.8. Resubmittal of conditional use application.

a. An application for a conditional use permit that has been denied shall not be resubmitted for a period of twelve (12) months and then only if the applicant can document a substantial change in need for a tower or antenna at the same location.

87.8. Towers and antennae in residential areas.

87.8.1. Placement of towers and antennae. Notwithstanding any other provision of this section, no tower or antenna shall be permitted in a residential neighborhood or within two thousand (2,000) feet of any residentially used property unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity. For the purposes of this section, the phrase "residentially used property" shall mean the property on which the residence is located and not more than three (3) acres of land, determined as if the residence was situated in the center of said tract.

87.9. Removal of abandoned towers and antennae.

87.9.1. Notice of abandoned antenna and structures. The owner or lessee of a tower or antenna shall promptly notify the department of its intent to abandon or, the abandonment of any tower or antenna.

87.9.2. Removal of abandoned antenna and towers. Any tower or antenna that is not operated for a continuous period exceeding twelve (12) months shall be considered abandoned, regardless of the intent of the owner or operator, and the owner of such antenna or tower shall remove the structure within ninety (90) days of such abandonment. Failure to remove such tower within ninety (90) days shall require removal of the tower at the owner's, permittee's, or lessee's expense. The county may seek injunctive and compensatory relief in a court of competent jurisdiction.

87.10. Application and permit fees.
87.10.1. **Approval of new tower no more than one hundred fifty (150) feet in height.** An application for construction of a new tower up to a height of one hundred fifty (150) feet shall be one thousand dollars ($1,000.00).

87.10.2. **Approval of antenna location on tower or alternative tower structure.** An application for location of an antenna on an existing tower or alternative tower structure (so long as the addition of said antenna adds no more than ten (10) feet to the height of the existing tower or structure), shall be five hundred dollars ($500.00).

87.10.3. **Approval of new tower greater than one hundred fifty (150) feet in height.** An application for construction for a new tower greater than one hundred fifty (150) feet in height (including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna) shall be three thousand dollars ($3,000.00).

[Section 88. Adult entertainment establishments.]

88.1. **Adult entertainment establishments.** Adult entertainment establishments are allowed as conditional uses in commercial and industrial zoned areas. No adult entertainment establishment is allowed to serve any type of alcoholic beverage or be located within the following boundaries:

- Within one thousand (1,000) feet of any parcel of real property which is either zoned for or currently used for residential uses or purposes;

- Within one thousand (1,000) feet of any parcel of real property upon which any church, school, governmental building, library, civic center, public park or playground is located;

- Within one thousand (1,000) feet of any parcel of real estate upon which any other adult entertainment establishment is currently located;

- Within one thousand (1,000) feet of any parcel of real property upon which is located any business which is currently licensed by the county or any other licensing authority for the purpose of sale of alcoholic beverages to the public, whether such sale is for consumption on the premises or not.

For the purpose of this section, distance shall be the airline measurement from the property line, using the closest property lines of the parcels of land involved. The term "parcel of real property" means any quantity of land capable of being described by location and boundary, designated and used, or to be used, as a unit.

88.2. **Definitions pertaining to adult entertainment establishments.**

**Adult entertainment establishment** means a business in which specified anatomical areas are displayed live or on film or video, including any movie theater which on a regular, continuing basis, shows films which any type of X rating by the Motion Picture Code Association of America or any movie theater which presents for public viewing film or video which exposes the specified anatomical areas herein defined.

**Alcoholic beverages** means distilled spirits, wine and/or malt beverages.
Live means any activity or entertainment which is carried on by actual living persons in the physical presence of the patrons.

Specific anatomical areas shall mean any of the following:

- Less than completely and opaquely covered human genitals or pubic region; cleft of the buttocks; or any portion of the female breast encompassed within an area falling below the horizontal line one would have to draw to intercept a point above the top of the areola, or any portion of the areola, or any simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or

- Human male genitalia in a discernible turgid state, even if completely and opaquely covered.

Specific sexual activities shall mean and include any of the following:

- The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- Masturbation, actual or simulated;
- The displaying of the male or female pubic hair, anus, vulva or genitals; or
- Excretory functions as part of or in connection with any of the activities set forth above.

ARTICLE IX.

ZONING ADMINISTRATION

Section 91. Duties and powers of the zoning enforcement officer, the board of zoning adjustment, and the planning commission.

91.1. Zoning enforcement officer. The zoning enforcement officer shall be any person designated by the board of commissioners to administer the provisions of this resolution and shall have the following powers and duties:

91.1.1. The zoning enforcement officer is authorized and empowered on behalf and in the name of the board of commissioners of the county to administer and enforce the provisions of this resolution, to include receiving applications, inspecting premises, issuing conditional use permits when so ordered by the board of commissioners, and issuing certificates of zoning compliance for uses and structures which are in conformity with the provisions of this resolution or for which a variance has been approved by the board of commissioners.

91.1.2. The zoning enforcement officer does not have the authority to take final action on applications, or matters involving variances, nonconforming uses, conditional uses, or other exceptions that
this resolution has reserved for action by the board of commissioners of the county.

91.1.3. The zoning enforcement officer shall keep accurate records of all permits issued in accordance with the administration of this resolution. He shall maintain the official zoning maps of the county and records of all violations and enforcement action. All of these records shall be open for public inspection.

91.1.4. The zoning enforcement officer shall ensure that proper notice, as provided in section 94 and 102 of this resolution, of actions of the board of commissioners is given.

91.2. Planning commission. The planning commission shall be established as provided in section 93 and shall have the following powers and duties:

91.2.1. To make studies and recommend to the board of commissioners plans, goals, and objectives relating to the growth, development, and redevelopment of the unincorporated area of the county.

91.2.2. To develop and recommend to the board of commissioners policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

91.2.3. To make recommendations to the board of commissioners concerning proposed amendments to the text of the official zoning regulations or the official zoning map, as provided in section 103 of this resolution.

91.2.4. To perform other duties assigned by the board of commissioners.

Section 92. Permits and certificates.

Permits and certificates shall be issued in accordance with the following provisions:

92.1. Certificate of zoning compliance. A certificate of zoning compliance is required for any construction or structural alteration. The zoning enforcement officer shall issue a certificate of zoning compliance for construction or structural alteration, provided such proposed construction, structure, structural alteration, and use for which said construction, structure, or structural alteration is intended is in conformance with the provisions of this resolution.

92.1.1 If any proposed excavation, filling, construction, or movement set forth in said application is in conformance with the provisions of this resolution and any other appropriate codes and regulations then in effect, or if a variance of the provisions of this resolution is granted pursuant to section 94, the zoning enforcement officer shall sign and return one (1) copy of the certificate of zoning compliance and retain one (1) copy of the same for his records.

92.1.2 If the application describes work that does not conform to the requirements of this resolution, the zoning enforcement officer shall not issue a certificate of zoning compliance.
92.1.3 Any certificate of zoning compliance shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the certificate was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year, or if it is determined that work is not proceeding in accordance with the approved plan.

92.2. **Conditional use application.** A conditional use permit is required for any use or construction or structural alteration classified as a conditional use in the zoning district in which it is located. Upon approval by the board of commissioners of an application for use or construction of structural alteration classified as a conditional use, the zoning enforcement officer shall issue a conditional use permit.

92.2.1. An application shall be accompanied by two (2) copies of a dimensional sketch or a to-scale plan, signed by the owner or his authorized agent, to include, as a minimum, the following:

92.2.1.1. Lot dimensions with property line monuments located thereon.

92.2.1.2. The shape, size, height, uses, and location of the building proposed to be erected, demolished, altered, or moved, and of any buildings already on the lot, yard dimensions, and the use of structures, including the number of dwelling units within each structure, when appropriate.

92.2.1.3. Public and private easements, watercourses, and fences existing on the lot.

92.2.1.4. Street names.

92.2.1.5. If the application is for a home business and the applicant is not the owner of the property, written permission for the use from the owner of the property.

92.2.1.6. If the application is for a change of use in a property, an overview of the expected use is required.

92.3. **Conditional use permit.** Upon approval by the board of commissioners of an application for a conditional use permit, or completion of construction or structural alteration allowed pursuant and conforming to an application by the owner or his agent, the zoning enforcement officer shall sign and issue a conditional use permit.

92.3.1. The zoning enforcement officer shall sign and issue a conditional use permit upon approval of an application by the board of commissioners.

92.3.2. The zoning enforcement officer shall not issue a conditional use permit, and no building or premises may be used, unless the proposed use of a building or land conforms to the terms of an application for a conditional use permit, as approved by the board of commissioners, and any other applicable provisions of this resolution.
Section 92.3. Each conditional use permit shall be conspicuously posted and displayed on the premises described in the permit during the period of construction or reconstruction and for the life of the use.

Section 93. Establishment of the planning commission.

The planning commission for the unincorporated area of the county is hereby established.

93.1. Membership. The planning commission shall consist of a number of members equal to the number of county commissioners, with each county commissioner appointing a planning commission member from his or her district for a term of one (1) year. Planning commission members may be reappointed. Any vacancy in the membership of the planning commission shall be filled for the un-expired term. Members may be removed for cause by the board of commissioners upon written charges and after public hearing thereon. No member of the planning commission shall hold any other public office.

93.2. Procedures. The planning commission shall observe the following procedures:

93.2.1. The planning commission shall adopt rules in accordance with the provisions of this resolution for the conduct of its affairs.

93.2.2. The planning commission shall elect one (1) of its members as chairman and one (1) of its members as vice-chairman, who shall serve for a period of one (1) year or until they are reelected or their successors are elected. The commission shall appoint a secretary.

93.2.3. Said commission shall adopt a regular meeting schedule consistent with its duties in regards to applications for amendment to the official zoning regulations or the official zoning map. Scheduled meetings shall be cancelled when no business is before the commission.

93.2.4. All meetings of the planning commission shall be open to the public.

93.2.5. The planning commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. All records shall be kept in the office of the zoning enforcement officer and shall be open for public inspection.

93.2.6. All actions of the planning commission shall be taken by majority vote, a quorum being present. A quorum shall consist of a majority of the Board membership, excluding vacant seats.

Section 94. Procedure for application for a conditional use or variance.

The following procedure shall be followed for applications for conditional use permits and variances of the provisions of this resolution.
94.1. **Application.** An application for a conditional use permit or variance from the provisions of this resolution must be submitted to the zoning enforcement officer in writing on forms supplied by the zoning enforcement officer. Applications for conditional use permit shall include the information specified in section 92. Application for a variance from the provisions of this resolution shall be made on such forms and including such materials as application for the use in question would include were a variance not required. Such application materials and site plan shall clearly indicate all elements of the proposed use for which a variance is sought and include a statement of the reason or reasons that a variance is required. An application may be withdrawn by the applicant upon written notice to the zoning enforcement officer any time before the decision on said application.

94.2. **Submittal to board of commissioners.** Upon receipt of an initial application for a conditional use or variance, the zoning enforcement officer shall cause the applications to be placed upon the agenda of the next meeting of the board of commissioners and set a hearing with the zoning board for the Monday a week before the meeting of the board of commissioners for which notification requirements can be met. The zoning enforcement officer shall initiate notification procedures required under this section.

94.3. **Notification.** The zoning enforcement officer shall notify neighboring property owners and the general public of any application for a conditional use or variance of the provisions of this resolution in accordance with the following procedures:

94.3.1. Upon the establishment of the hearing dates for any application for a conditional use or variance, the zoning enforcement officer shall notify by mail all owners of property lying within two hundred (200) feet of the property for which the application is filed. In instances that the variance or a conditional use request would have a greater impact on the surrounding area, the zoning officer, at his discretion, may expand the notification area. Such notification shall include the nature of the application, the times, dates, and places of the hearings upon said application, and the address and telephone number of the zoning enforcement officer, should additional information be required. Such notification shall be mailed not less than fifteen (15), nor more than forty-five (45) days prior to the hearings.

94.3.2. Upon the establishment of a hearing dates for any application for a conditional use or variance, the zoning enforcement officer shall cause to have posted in a conspicuous place on the property in question one or more signs, containing information as to the type of application made and the address and telephone number of the zoning enforcement officer for further information. Such sign or signs shall be posted not less than fifteen (15), nor more than forty-five (45) days prior to the hearings.

94.3.3. Upon the establishment of the hearing dates for any application for a conditional use or variance, the zoning enforcement officer shall cause to be published in a newspaper of general circulation in the county notice of said application. Such notice shall include the nature of the application, the times, dates, and places of the hearings upon said application, and the address and telephone number of the zoning enforcement officer,
should additional information be required. Such notice shall be published not less than fifteen (15), nor more than forty-five (45) days prior to the hearings.

94.3.4. Upon the establishment of the hearing dates for any application for a conditional use or variance, the zoning enforcement officer shall notify by mail the applicant of the times, dates, and places of the hearings upon said application. Such notification shall be mailed not less than fifteen (15) days prior to the hearings.

94.4. **Hearing and decision.** The following provisions shall apply to hearings upon applications for a conditional use permit, or variance from the provisions of this resolution.

94.4.1. The board of commissioners and the zoning board shall hear and decide upon applications for conditional uses using the following standards:

94.4.1.1. The proposed use or structure shall be compatible with development and uses existing on adjacent and nearby property.

94.4.1.2. The proposed use or structure shall not have a substantial adverse impact upon the existing use or usability of adjacent or nearby property.

94.4.1.3. The proposed use or structure shall not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, or other public facilities.

94.4.1.4. Any other relevant factors, including the conformity of the proposed development with duly adopted land use and other physical development plans or policies for the area may also be considered.

94.4.2. The board of commissioners shall hear and decide upon applications for a variance from the terms of this resolution in specific cases. Such variance may be authorized as will not be contrary to the public health, safety, morals, convenience, order, prosperity, or welfare where, owing to special conditions, a literal enforcement will, in an individual case, result in unnecessary hardship, so that the spirit of this resolution shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of commissioners that:

94.4.2.1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

94.4.2.2. The application of the provisions of this resolution to this particular piece of property would create an unnecessary hardship;

94.4.2.3. Such conditions are peculiar to the particular piece of property involved; and
94.4.2. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this resolution.

94.4.3. In response to comments by persons appearing at the hearing or to recommendations by the board of commissioners, the applicant may agree to modify his application, including any plans or specifications submitted. Unless such modifications are so substantial that the board determines that revised plans are necessary for adequate consideration of the application, the board may approve the application with the stipulation that the permit or certificate shall not be issued until plans reflecting the agreed upon changes are submitted to the zoning enforcement officer.

94.4.4. Any decision made by the board of commissioners upon an application for a conditional use permit, or variance shall be reduced to writing and served upon the applicant and shall be made a public record and maintained in the office of the zoning enforcement officer. Such decision shall include the board's findings and conclusions, as well as supporting reasons and facts, where applicable. Such decision shall be made within thirty (30) days of the final hearing on the matter.

94.4.5. Whenever an application for a conditional use or variance is denied, the board of commissioners shall not consider any further application for the same conditional use or variance on the same property or any part thereof for a period of twelve (12) months from the date of final denial. An application for a conditional use or variance which is essentially the same as one previously denied shall be considered as being for the same conditional use or variance as was previously denied.

94.4.6. Any person, firm, or corporation whose application has been previously and finally disapproved may, within thirty (30) days from the date of final disapproval, move for a rehearing by the board of commissioners. All motions for a rehearing by the board shall be written and presented to the zoning enforcement officer, and no hearing shall be held on such motion. No motion for rehearing shall be considered unless new or additional information not available at the time of the original hearing or not presented due to excusable neglect is available. A denial of this motion is a final action. The granting of this motion shall require a new hearing and a new process of notification as if the application were considered for the first time.

94.4.7. Time limits on conditional uses and variances. When a conditional use or variance is granted the applicant must put the conditional use or variance into effect within six (6) months or he must reapply. Any conditional use or variance that ceases to be in effect for six (6) months is considered null and the property will go back to the original purpose.

Section 95. Procedure for appeal of administrative decisions before the board of commissioners.

Requests for a hearing before the board of commissioners in cases where it is alleged that there is error in any order, requirement, decision, or determination made by the zoning enforcement officer or other administrative official in the enforcement of the provisions of this resolution shall observe the following procedures:
95.1. *Request of hearing.* An applicant alleging error in the enforcement of the provisions of this resolution shall submit to the zoning enforcement officer a written notice of appeal, specifying the action or actions challenged and specifying the grounds of said appeal, and any supporting materials relevant to the appeal. An appeal may be withdrawn by the appellant upon written notice at any time before final decision on said appeal.

95.2. *Affect on legal proceedings.* An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning enforcement officer certifies to the board of commissioners that, by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by said board or by a court of competent jurisdiction, on application, on notice to the official from whom the appeal is taken, and on due cause shown.

95.3. *Submittal to board of commissioners.* Upon receipt of a notice of appeal, the zoning enforcement officer shall inform the chairman or vice-chairman of the board of commissioners of the appeal. The chairman or vice-chairman shall set a time and date, not more than forty-five (45) days from the date of receipt of the notice of appeal, for a hearing upon said appeal and direct the zoning enforcement officer to notify the appellant of such hearing.

95.4. *Notification.* Upon the establishment of a hearing date upon an appeal, the zoning enforcement officer shall notify by mail the appellant of the time, date, and place of the hearing upon said appeal. Such notification shall be mailed not less than fifteen (15) days prior to the hearing.

95.5. *Hearing and decision.* The following provisions shall apply to hearings upon appeals of actions taken in the enforcement of the provisions of this resolution:

95.5.1. The board of commissioners shall hear and decide upon appeals in accordance with established procedures for public meetings held by the board of commissioners.

95.5.2. All applications, plans, correspondence, supporting materials, or other materials relevant to the appeal and maintained in the records of the zoning enforcement officer shall be provided to the board and shall be a part of the record of the appeal.

95.5.3. Any decision made by the board of commissioners upon an appeal shall be reduced to writing and served upon the applicant and shall be made a public record and maintained in the office of the zoning enforcement officer. Such decision shall include the board's findings and conclusions, as well as supporting reasons and facts, where applicable.

**Section 96. Fees and charges.**

The board of commissioners shall establish reasonable fees and charges for the processing of applications for permits and amendments to the text of the official zoning resolution and the official zoning map.

**Section 97. Potential conflicts of interest.**
Members of the planning commission and of the board of commissioners involved in decisions upon a proposed amendment to the official zoning maps shall fulfill the requirements of O.C.G.A. tit. 36, ch. 67A, regarding conflicts of interest in zoning actions. Said officials shall fulfill the same requirements specified by state law for a rezoning action in cases of applications for a conditional use or a variance from the provisions of this resolution, or of an appeal of an administrative decision.

**ARTICLE X.**

**PROCEDURE FOR AMENDMENT OF THE ZONING RESOLUTION FOR THE UNINCORPORATED AREA OF MONROE COUNTY, GEORGIA**

The board of commissioners may, from time to time, after examination, review and hold a public hearing upon, amend, supplement, or change the regulations contained herein. Proposal for amendment, whether initiated by the board of commissioners, or [a] person, firm, or corporation, shall not be acted upon until a public hearing has been held pursuant to the following procedures.

**Section 101. Initiating the hearing.**

A public hearing on a proposed amendment to the text of the official zoning resolution or the official zoning maps may be initiated by the board of commissioners or by any other party, according to the following provisions:

101.1. *Application by parties other than the board of commissioners.* A party other than a member of the board of commissioners acting in his official capacity may request an amendment in the text of the official zoning resolution or in the official zoning maps for the unincorporated area of the county.

101.1.1. An amendment to the text of the official zoning resolution or the official zoning maps may be initiated by any party other than the board of commissioners through written application submitted to the zoning enforcement officer.

101.1.1.1. Application for amendments to the text of the official zoning resolution shall fully describe the proposed amendment, supplement, or change.

101.1.1.2. Application for amendments to the official zoning maps shall be made on forms supplied by the zoning enforcement officer and must be accompanied by a dimensional sketch or to-scale plan of the proposed use included in any application for amendments to the Official zoning maps. Such plan shall include, at a minimum, the following:

101.1.1.2.1. Lot dimensions with property line monuments located thereon.

101.1.1.2.2. The shape, size, height, uses, and location of the buildings proposed to be erected, demolished, altered, or moved, and of any buildings already on the lot, yard dimensions, and the use of structures,
including the number of dwelling units within each structure, when appropriate.

101.1.1.2.3. Public and private easements, watercourses, and fences existing on the lot.

101.1.1.2.4. Street names and street right-of-way lines.

101.1.1.2.5. Such other information regarding abutting property as directly affects the application, including a list of the names and mailing addresses of all owners of property within two hundred (200) feet of the property for which the application is submitted, as shown on the county property tax record or as is known to the applicant.

101.1.3. No application for amendment of the official zoning map may be considered if, within twelve (12) months prior to such application, a proposed amendment for the rezoning of property proposed for rezoning, such application has been considered and rejected by the board of commissioners.

101.2. Upon receipt of an application for amendment of the text of the official zoning resolution or the official zoning maps, the zoning enforcement officer shall notify the chairman of the planning commission and the board of commissioners of said application. Said application shall be placed upon the agenda of the next regular meeting of the planning commission. The board of commissioners shall schedule a public hearing upon said application on a date following scheduled consideration of said application by the planning commission, provided that the notice requirements of section 102 of this resolution are met.

101.1.3. Any application for amendment to the text of the official zoning resolution or the official zoning map may be withdrawn by the applicant upon written notice to the zoning enforcement officer at any time prior to final action thereon by the board of commissioners.

101.2. Amendments proposed by the board of commissioners. An amendment to the text of the official zoning resolution or the official zoning maps proposed in the form of a motion by a member of the board of commissioners shall be referred to the planning commission for review. Said proposal shall be placed upon the agenda of the next regular meeting of the planning commission. The board of commissioners shall schedule a public hearing upon said proposal on a date following scheduled consideration of said proposal by the planning commission, provided that the notice requirements of section 102 of this resolution are met.

Section 102. Notice of hearings.

The following requirements for notice shall apply to all applications and proposals for amendment of the text of the official zoning resolution or the official zoning maps initiated by the board of commissioners or by any other party.
102.1. Amendments proposed by the board of commissioners. The following requirements for notice shall apply to proposals for amendment of the text of the official zoning resolution or to the official zoning maps initiated in the form of a motion by a member of the board of commissioners.

102.1.1. At least fifteen (15) but not more than forty-five (45) days prior to the date of a hearing held by the board of commissioners upon any proposal or application for amendment of the text of the official zoning resolution or the official zoning map, the zoning enforcement officer shall cause to be published in a newspaper of general circulation in the county a notice, stating the time, place, and purpose of said hearing.

102.2. Amendments proposed by parties other than the board of commissioners. The following requirements for notice shall apply for applications for amendments of the text of the official zoning resolution or the official zoning map initiated by parties other than members of the board of commissioners acting in their official capacity:

102.2.1. An application for amendment to the text of the official zoning resolution shall be governed by the notice requirements contained in section 102.1.1 of this resolution.

102.2.2. The following requirements for notice shall apply to applications for amendment to the official zoning maps:

102.2.2.1. The zoning enforcement officer shall cause to be published in a newspaper of general circulation in the county public notices, as required by section 102.1.1 of this resolution, but also including the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

102.2.2.2. The zoning enforcement officer shall notify by mail each property owner within two hundred (200) feet of any property for which an amendment of the official zoning map is sought of the application for amendment. Such notification shall include all elements contained in public notices of hearings held by the board of commissioners published pursuant to section 102.2.1 of this resolution. Such notifications shall be mailed not less than seven (7) days prior to any hearing held upon said application by the planning commission and not less than fifteen (15) days nor more than forty-five (45) days prior to any hearing held upon said application to the board of commissioners.

102.2.2.3. The zoning enforcement officer shall cause to be posted in a conspicuous location on the property for which an amendment to the official zoning map is sought one (1) or more signs, containing the type of application made, the present zoning classification of the property, the proposed zoning classification of the property, and the address and telephone number of the zoning enforcement officer for further information. Such sign or signs shall be posted not less than seven (7) days prior to any hearing held upon the application by the planning commission.
Section 103. Conducting the hearing.

The following procedures shall be followed in conducting public hearings upon any proposal or application for amendment of the official zoning maps or the text of the official zoning resolution:

103.1. Review by the planning commission. The planning commission shall review any proposal or application pursuant to section 93.2 of this resolution. The planning commission shall forward to the board of commissioners recommendations upon each proposal or application, to be made using the standards contained in section 104 of this resolution, within thirty (30) days of the receipt by the zoning enforcement officer of said application or the date said proposal is officially made by a member of the board of commissioners. If recommendations are not made within the prescribed time, the zoning enforcement officer shall report to the board of commissioners that the planning commission has no recommendation upon the proposal or application for which the prescribed time limits have not been met.

103.2. Hearings held by the board of commissioners. The following procedures shall be followed in hearings conducted by the board of commissioners upon any proposal or application for amendment of the official zoning maps or the text of the official zoning resolution:

103.2.1. Opening the hearing. The chairman of the board of commissioners shall open the hearing at the time and place specified in the hearing notice. The chairman shall announce the rules of the hearing before proceeding to address the proposed amendments listed on the agenda.

103.2.2. Report of the planning commission. For each proposed amendment, the chairman shall call upon the county clerk to read aloud the report of the planning commission. If more than thirty (30) days have passed since the receipt by the zoning enforcement officer of an application for said amendment or the initiation of said amendment by a member of the board of commissioners but the planning commission has made no recommendation on said proposed amendment, the board of commissioners may consider the application without any recommendation from the planning commission.

103.2.3. Public comment. The chairman shall then call for a show of hands of those present wishing to speak in support of the proposed amendment. The chairman shall recognize each person in turn and ask him or her to rise, state his or her name and address, and present his or her statement within a period of time not to exceed ten (10) minutes. The chairman shall then call for a show of hands of those present wishing to speak in opposition to the proposed amendment. The chairman shall recognize each person in turn and ask him or her to rise, state his or her name and address, and present his or her statement.

103.2.4. Discussion and decision. After all persons have been given an opportunity to speak upon the proposed amendment, the board of commissioners shall discuss the
proposed amendment and render final decision using the standards contained in section 104 of this resolution.

103.2.5. **Closing the hearing.** After all of the proposed amendments listed on the agenda have been fully addressed pursuant to the foregoing procedure, the chairman shall declare the hearing to be closed.

**Section 104. Standards for decision.**

In the formulation of any recommendation by the planning commission or the making of a decision by the board of commissioners upon any application or proposal for amendment to the official zoning maps, the planning commission and the board of commissioners shall balance the interest of the community in promoting the public health, safety, morals, and general welfare against the right of property owners to the unrestricted use of their property. In making these recommendations and decisions, the planning commission and the board of commissioners shall use the following standards:

104.1. Whether the proposed amendment would permit a use that is suitable in view of the use and development of adjacent and nearby property.

104.2. Whether the proposed amendment would adversely affect the existing use or usability of adjacent or nearby property.

104.3. Whether the property to be affected by the proposed amendment has a reasonable economic use as currently zoned.

104.4. Whether the proposed amendment would result in a use that would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, or other public facilities.

104.5. Whether the proposed amendment is in conformity with the policy or intent of any duly adopted land use or other physical development plan.

104.6. Whether there are other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposed amendment.

**Section 105. Request for rehearing.**

Any person, firm, or corporation whose application has been previously and finally disapproved may, within thirty (30) days from the date of final disapproval, move for a rehearing by the board of commissioners. All motions for a rehearing by the board shall be written and presented to the zoning enforcement officer, and no hearing shall be held on such motion. No motion for a rehearing shall be considered unless new or additional information not available at the time of the original hearing or not presented due to excusable neglect is available. A denial of this motion is a final action. The granting of this motion shall require a new hearing and a new process of notification as if the application were considered for the first time, provided that no further action or recommendation on the part of the planning commission shall be required. The board of
commissioners may, at its discretion, request that the planning commission reexamine the application and submit its findings to the board.

105.1. Whenever an application for an amendment to the official zoning maps is denied, the board of commissioners shall not consider any further application for the same amendment on the same property or any part thereof for a period of twelve (12) months from the date of final denial. An application for an amendment which is essentially the same as one previously denied shall be considered as being for the same amendment as was previously denied.

Section 106. Printing and distributing this article.

The zoning enforcement officer shall cause to be reproduced and shall keep available copies of this article for distribution to the general public. This article contains provisions required under "The Zoning Procedures Law" (O.G.C.A. tit. 36, ch. 66). Distribution of this article shall conform to the requirements set forth in said law.

ARTICLE XI.
ENFORCEMENT AND REMEDIES

Section 111. Violation.

This resolution is adopted pursuant to article 9, section 2, paragraph 4 of the Georgia Constitution. It shall be unlawful to construct, reconstruct, or alter any building or other structure without first obtaining a conditional use permit or certificate of zoning compliance from the zoning enforcement officer. It shall be unlawful to use any building, structure, or land without first obtaining a conditional use permit or a certificate of zoning compliance from the zoning enforcement officer. The zoning enforcement officer shall not issue any permit unless the provisions of this resolution are complied with.

Section 112. Remedies.

In case any building of [or] structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this resolution, the board of commissioners, through any designated authority, or any adjacent or neighboring resident, occupant, or property owner who would be specifically damaged by such violation, may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure, or land. Upon a showing that the holder of any permit or certificate has failed to comply with any term, condition, or restriction under which said permit or certificate was granted, and after notice to all concerned parties of the time, place and date of public hearing and hold said public hearings, the board of commissioners may revoke any permit or certificate previously issued.

ARTICLE XII.
LEGAL STATUS PROVISIONS
Section 121. Conflict with other laws.

Whenever the requirements of this resolution are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, or ordinances, the most restrictive, or that imposing higher standards, shall govern.

Section 122. Separability.

Each phrase, sentence, paragraph, section, or other provision of this Resolution is separable from all other such phrases, sentences, paragraphs, sections, and provisions. Should any phrase, sentence, paragraph, section, or other provision of this resolution be declared by a court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this resolution.

Section 123. Effective date.

This resolution shall take effect and be in force from and after December 05, 2006.