(Article VIII, Deleted and Replaced with New Article VIII, Resolution No. 052002058, May 20, 2002)
(Article VIII renumbered Article X, Resolution 06211044, June 21, 2010)

ARTICLE X

EXCEPTIONS AND MODIFICATIONS

SECTION

10-1 SCOPE

10-2 NONCONFORMING USES

10-2.1 Provisions Governing Nonconforming Uses

10-3 BULK AND LOT SIZE NONCOMPLIANCE

10-4 EXCEPTIONS TO HEIGHT LIMITATIONS

10-5 LOTS OF RECORD

10-6 EXCEPTIONS TO SETBACK REQUIREMENTS

10-7 ABSOLUTE MINIMUM LOT SIZE

ARTICLE X

EXCEPTIONS AND MODIFICATIONS

10-1 SCOPE

ARTICLE X, of this Resolution, is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in ***ARTICLE VI*** and ***ARTICLE VII***.

10-2 NONCONFORMING USES

The districts established in this Resolution *(as set forth in district regulations in **ARTICLE VI**)* are designed to guide the future use of land in Robertson County, Tennessee, by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible, and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to

certain limitations. The provisions governing nonconforming uses set forth in this article are, therefore, established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this Resolution is designed to restrict any expansion of such uses beyond the site, which the use occupied upon the effective date of this Resolution.

In the case of buildings or other structures not complying with the bulk regulations of this Resolution, the provisions governing noncomplying buildings or other structures set forth in this article are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance.

These provisions are, thus, designed to preserve the character of the districts established in this Resolution in light of their suitability to particular uses, and, thus, to promote the public health, safety, and general welfare.

10-2.1 Provisions Governing Nonconforming Uses

A. Applicability

The provisions of this article are applicable to all uses, which are not permitted within the districts in which they are located. Additionally, buildings and other structures located within the floodway are considered within the regulations of nonconforming uses.

B. Construction or Use Permit Approved Prior to Resolution Adoption

Nothing contained, herein, shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this Resolution, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this Resolution and completion, thereof, carried on in a normal manner within the subsequent six *(6)* months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six *(6)* month period following the issuance of a building permit, then such permit shall automatically lapse and the provisions of this Resolution shall apply.

C. Repairs and Alterations

Nothing in this article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

D. Zone Lot Containing Nonconforming Use

A zone lot containing a nonconforming use shall not be reduced in area except to comply with *Section C*.

E. Continuation of Nonconforming Use

Any nonconforming use which existed lawfully at the time of enactment of this Resolution and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this Resolution, or any subsequent amendments, thereto, may be allowed to continue in operation and be permitted provided that no change in use is undertaken.

F. Change of Nonconforming Use

1. General Provisions

For the purpose of this article, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Nonconforming to Conforming Use

Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

G. Expansion of Nonconforming Uses

1. General Provisions

Any nonconforming use which shall become nonconforming upon enactment of this Resolution, or any subsequent amendments thereto, may be allowed to expand operations and construct

additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions as set out below.

2. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

3. Adequate Space for Expansion

No expansion or any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this Resolution, upon any open space required by this Resolution. All required yard setback requirements must be adhered to in any such expansion project.

4. Expansion Limited

Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land.

5. Expansion upon Land Subject to Flood

No expansion of any nonconforming use shall violate the provisions of *Section 7-2*.

H. Damage or Destruction

1. General Provisions

Any nonconforming use which shall become nonconforming upon enactment of this Resolution, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve any actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.

2. Change in Use Prohibited

No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use *(as regulated in Section G, above)* to other than a permitted use.

3. Land with Incidental Improvements

In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined by this Resolution) is damaged or destroyed to the extent of twenty-five *(25)* percent or more of the assessed valuation of all buildings, and other structure or other improvements located thereon *(as determined from the assessment rolls effective on the date of damage or destruction)*, such nonconforming use shall terminate and the tract of land shall therefore be used only for a conforming use.

4. Infringement upon Open Space Restricted

No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this Resolution.

5. Reconstruction of Flood Damaged Property

The provisions of *Section 10-3,* shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within a floodway district.

I. Discontinuance

When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of one year, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

10-3 BULK AND LOT SIZE NONCOMPLIANCE

A. General Provisions

The provisions of this article shall control buildings and other structures which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.

B. Continuation of Use

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this article.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of *Section 10-3, D, through 10-3, F*.

D. Enlargements or Conversions

A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of any portion of a building or other structure or parcel.

E. Buildings Noncomplying as to Lot Area

If a building does not comply with the applicable district regulations on lot area per dwelling unit *(lot area being smaller than required for the number of dwelling units on such zone lot)* such building may be converted *(except when in the floodway district)*, provided that the deficiency in the required lot area is not thereby increased (for example, a noncomplying building on a lot of thirty-five hundred *(3,500)* square feet, which before conversion required a lot area of five thousand *(5,000)* square feet and was, therefore, deficient by fifteen hundred *(1,500)* square feet, can be converted into any combination of dwelling units allowed in the zoning district in question requiring a lot area of no more than five thousand *(5,000)* square feet).

F. Damage or Destruction of Noncomplying Uses

A noncomplying building which is damaged or destroyed may be reconstructed, provided that the reconstruction will not either create a new noncompliance or increase the degree of noncompliance of a building or structure or parcel or portion, thereof.

10-4 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Resolution shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills not in residential zones, chimneys, smokestacks, conveyors, flag poles, public and semi-public radio towers, masts and aerials. Heights exceptions for radio towers and windmills in residential zoning districts shall be allowed only when approved by the Planning Commission.

10-5 LOTS OF RECORD

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

A. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this Resolution does not

own sufficient land to enable him to conform to the yard or other requirements of this Resolution, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this Resolution. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the Board of Zoning Appeals.

B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this Resolution, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.

C. Where two *(2)* or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

10-6 EXCEPTIONS TO SETBACK REQUIREMENTS

The front setback requirement of this Resolution for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred *(100)* feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred *(100)* feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen *(15)* feet from the street right-of-way line.

10-7 ABSOLUTE MINIMUM LOT SIZE

In no case shall the Building Commissioner or the Board of Zoning Appeals permit any zone lot in a residential district to be used as building site which is less than six thousand *(6,000)* square feet in total area and thirty *(30)* feet in width at its narrowest point, or has a front setback of less than fifteen *(15)* feet and a side setback of less than five *(5)* feet, with the exception of officially approved planned developments.