

ARTICLE III
SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

SECTION

- 3.010 Temporary use regulations
- 3.020 Customary incidental home occupations
- 3.030 Gasoline service station restrictions
- 3.040 Cluster residential development (Subdivided)
- 3.050 Development standards for automobile wrecking, junk and salvage yards
- 3.060 Development standards for the installation of communication towers and stations
- 3.070 Abandoned Vehicles
- 3.080 Quarries
- 3.090 Solid Waste Landfill Restrictions
- 3.100 Criteria for Donated Lots to be Used as Parks
- 3.110 Solid Waste Transfer Station
- 3.120 Recycling Centers
- 3.130 Outdoor Firearms Training Facilities

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

A. Carnival or Circus: May obtain a Temporary Use Permit in the A-1, A-2, C-1, C-2 Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided.

B. Christmas Tree Sale: May obtain a 30-day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.

C. Temporary Buildings: In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.

D. Religious Tent Meetings: In any district, except the M-1, General Industrial District, A Temporary Use Permit may be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than 30-day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

E. Temporary Dwelling Unit in Cases of Special Hardship: In any residential district, a Temporary Use Permit may be issued to place a mobile home (double-wides excluded) temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomenon. The purpose of such placement temporarily shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Marshall County Health Department and/or the Utilities System approving the water supply and sewage disposal systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of eighteen (18) months.

F. Temporary Dwelling Unit in Cases of Medical Hardship: In any residential district, a Temporary Use Permit may be issued to place a mobile home (double-wides excluded) on a lot which already contains a residential structure, provided that the purpose of such temporary placement shall be to make it possible for a resident of either structure to provide assistance to a person who requires daily assistance due to physical or mental disability, and provided further that such a temporary structure does not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this Subsection must produce a written statement from a physician certifying that the specific disability requires assistance from someone in close proximity as evidence of such disability, and a written statement from the Marshall County Health Department approving the sewage disposal system of the proposed temporary structure.

Such permit may be initially issued for twelve (12) months. A permit may be renewed for twelve (12) months at a time, subject to producing a new statement from a physician certifying that the assistance is still required due to the disabling condition. The temporary permit shall be revoked and the structure removed immediately upon expiration of the permit or upon a change in the conditions under which such permit was issued.

The person requiring assistance due to the disabling condition may be a resident of either the temporary or permanent structure. The temporary residence shall be treated as an accessory building.

G. Limited Duration Goods and Merchandise (including temporary flea markets and yard sales): May obtain a thirty (30) day Temporary Use Permit for the display and sale of limited duration goods and merchandise on open lots in any district.

3.020. Customary incidental home occupations. A customary incidental home occupation is a gainful occupation or profession (including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty and tailor shops) conducted by members of a family residing on the premises or only one person in addition to those persons residing therein and conducted entirely within the principal dwelling unit or in a permitted accessory structure. In connection with a home occupation, no stock in trade shall be displayed

outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. An announcement sign of not more than four (4) square feet in area is permitted.

Once a specific home occupation is granted as a special exception for a particular parcel, it cannot be changed to another use. If there is a change in ownership of a parcel conducting an incidental home occupation, then the special exception, allowing that specific home occupation, for the parcel shall cease.

When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the district in which said home occupation is located. However, activities such as dancing instruction, band instrument instruction (except piano instruction) tea rooms, bed and breakfast establishments, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

3.030. Gasoline service station restrictions. The following regulations shall apply to all gasoline services stations:

A. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.

B. Gasoline pumps shall not be located closer than fifteen (15) feet to any right-of-way line.

3.040. Cluster residential development (Subdivided):

Intent: To permit greater flexibility for creative design to achieve superior scenic quality and recreational opportunity close to home by providing for residential subdivisions which incorporate permanent local open space accessible to all residential lots.

How it works: Instead of the conventional subdivision procedure which results in homes more or less evenly spaced throughout the site, these provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of the site. Developers, however, cannot construct more dwelling units on the site than the zoning minimum lot size requirements call for, but can reduce lot sizes if the land thus saved is put into permanent open space.

A Procedure for Approval.

1. Initial Sketch and Consultation.

Before preparing a formal proposal for cluster residential development, the applicant shall submit five (5) copies of a sketch of the proposed development to the planning commission

as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than 1"=200'.

- boundaries and acreage of the site
- number and building types of dwelling units
- arrangement of streets, structures, and lots
- access to existing streets
- local open space tracts and prospective uses
- any convenience service area
- location and size of water, sewer lines.

2. Plat Approval Procedures.

Proposals for cluster residential developments shall be subject to the Marshall County Subdivision Regulations, shall be prepared and reviewed under the plat approval procedure of that resolution, and shall be in accordance with the provisions of this section.

A. Development Requirements.

1. This section shall apply only to residential structures located within the A-1, A-2, and R-1 Districts, excluding mobile homes. **(Amended by Resolution 05-11-06, November 28, 2005) (Affirms by Resolution 08-03-05, March 24, 2008)**

2. Minimum number of dwellings units per subdivision40.

3. Maximum Density.

The average number of dwelling units per acre of buildable land (not including land for street right-of-way) shall not exceed the minimum land area requirements as cited in the R-1 District. Maximum buildable acreage shall consist of seventy-five (75) percent of the total residentially-zoned acreage available, with twenty-five (25) percent of said total to be allocated for street right-of-way regardless of the acreage actually required.

4. Minimum lot size, width or yard requirements None.

5. Structure location requirements.

-Minimum distance between structure and street right-of-way line 30 feet.

-Minimum spacing between structures30 feet.

6. Convenience Commercial Services.

Food and drug stores, beauty and barber shops, coin laundries, or similar commercial facilities only, may be permitted within developments of one hundred (100) units or more for the purpose of serving local residents. Such facilities must be designed as an integral part of the

development, and external advertising or other characteristics which alter the residential scenic quality, noise level, or traffic load shall not be permissible. Commercial facilities shall not be established before residential construction commences.

7. Utilities.

The development shall be serviced with public or package sanitary sewerage and public water on trunk lines not less than eight (8) inches and six (6) inches respectively. Larger size utility lines may be required on review of the proposal.

8. Local Open Space.

(a) Minimum local open space requirement.

Plats proposed for approval under the provisions of this section shall include local open space tracts of size, location, shape and topography which will meet the intent of this section. (Marshall County Subdivision Regulations). The minimum amount of local open space to be allocated shall not be less than the aggregate amount by which building lots are reduced from regular minimum lot size requirements.

(b) Permitted local open space uses.

Only the following land uses may be set aside as common land for local open space on recreational uses:

-Private recreational facilities, such as golf courses or swimming pools, which are limited to the use of the owners or occupants of the lots located within the subdivision.

-Historic building sites or historical sites, parks and parkway areas, extensive areas with tree cover, low land along streams or areas of rough terrain when such areas are extensive and have natural features worth of scenic preservation.

(c) Legal requirements for operation and maintenance.

Local open space, at the option of the developer, may be retained by him or deeded by him to a homeowners association or other organization approved by the planning commission. When such tracts are retained by the developer, plans for improvement and maintenance of these tracts must be approved by the planning commission, and deed covenants, made to assure continuing use of the tracts for local open space purposes.

When such tracts are to be deeded to a homeowners association, the developer shall provide:

- (1) The legal framework for a homeowners association, consisting of articles of incorporation and by-laws which guarantee as a minimum:

-that the homeowners association will be responsible for liability insurance, local taxes, maintenance of recreational or other facilities pertaining to the local open space.

-that when more than fifty (50) percent of the lots within the subdivision are sold, there shall be a special meeting of the homeowners association within sixty (60) days.

(2) Deeds to individual lots within the subdivision, which shall convey mandatory membership in the homeowners association, and include as a minimum the following provisions:

-responsibility for paying a pro-rata share of the cost of the homeowners association operation.

-agreement that the assessment levied by the association can become a lien on the property if not paid.

-agreement that the association shall be able to adjust the assessment to meet changed needs.

-guarantee of permanent unrestricted right of utilize lands and facilities owned by the association.

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

A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than five hundred (500) feet from any established residential zone.

C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.

D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.

E. Ingress and Egress: The number of vehicular access driveways permitted on any single street frontage shall be limited to:

1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to thirty (30) feet in width maximum, exclusive of curb returns.

F. Application for Automobile Wrecking, Junk or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk, or salvage yard within Marshall County until he has secured a permit from the Marshall County Board of Zoning Appeals. An application for said permit shall be filed in accordance with Article VIII, Section 8.060, of this resolution and shall be accompanied by a detailed site plan, a schedule for construction, and any other information herein required. Said application shall be submitted along with any plans and schedules. The Board shall vote to approve or disapprove the application in accordance with the time schedule in Section 8.060. **(Amended by Resolution 05-04-12, April 25, 2005)**

3.060. Development standards for the installation of communication towers and stations. The purpose of this section is to establish general guidelines for the siting and installation of communication equipment such as towers and antennas. The goals of these standards are to:

1. Minimize the total number of towers throughout the county.
2. Encourage strongly the joint use of new and existing tower sites.
3. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse visual impact on the community is minimal.
4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
5. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.

A. Required Development Standards

Because communication towers and antennas can have a decidedly detrimental effect upon surrounding properties, and may adversely affect property value by their general appearance, property owners located within five hundred (500) feet of any property upon which request to locate a communications tower is made shall be notified, by letter, of such request. The Marshall County Zoning Compliance Office shall mail said notification seven (7) days prior to the scheduled Planning Commission meeting. The seven (7) days' notice shall not include the day on which the letter is mailed or the day of the meeting.

The following standards shall be used as a guide in evaluating whether the proposed installation of communications towers and antennas have properly minimized their objectionable characteristics.

The location of any type of communication tower and/or antenna shall be approved by the Marshall County Planning Commission in those districts where permissible. Applicants shall provide the following information in multiple copies adequate for distribution to the Marshall County Planning Commission:

1. Site and landscaping plans drawn to legible scale and details. The site shall be located and highlighted on the tax map with the map and parcel numbers identified.
2. A written report including a description of the tower with technical reasons for its design.
3. An inventory and map identifying the location of existing and proposed tower sites owned and operated by the applicant. The inventory shall also include information on the height and design of each existing tower as well as those proposed.
4. Documentation establishing the structural integrity of the tower's proposed uses certified by a professional engineer licensed in the State of Tennessee competent in such design (structural engineer), the general capacity of the tower and information necessary to insure that American National Standard Institute (ANSI) standards are met.
5. A written statement of intent whether excess space on the tower will be leased (i.e., total amount of co-locators permitted on tower).
6. Written proof of ownership of the site or a copy of the owner's authorization to use the site.
7. Copies of any easements necessary to gain access or limited development areas.
8. Owner of the proposed site and tower representative to appear before the Planning Commission.
9. An analysis of the site containing existing topographical contours based upon field obtained data tied to USG elevation datum.
10. A written report from a professional engineer licensed in the State of Tennessee (geotechnical engineer) that the soils and underlying materials will support the intended structure.
11. Written evidence that the tower facility meets technical emissions standards set by the Federal Communications Commission (FCC).
12. Written evidence as to why this site was selected and why co-location is not a possible venue.

13. Written evidence that the site complies with requirements of the National Environmental Policy Act (NEPA) in regard to impact on wildlife, endangered species, historical sites, Indian religious sites, floodplains, wetlands, high intensity white lights in residential neighborhoods and frequency emissions in excess of FCC guidelines. The Planning Commission may exempt communication towers that are under 150 feet in height from providing written compliance with NEPA, if the applicant can provide evidence to the Planning Commission that the impact of the tower will not be significant to the surrounding area. The evidence may include, but is not limited to, the following: land-use of the surrounding properties, topography of the area, proof that the area is free from flooding or other natural hazard, etc. More information may be requested by the Planning Commission. If the information provided by the applicant is not sufficient in the Planning Commission's estimation, the applicant shall provide the NEPA compliance material. **(Amended by Resolution 06-08-11, August 28, 2006)**

B. Other Requirements

1. Towers shall be located on a lot so that a fall radius from the base of the tower to any adjoining property line or supporting structure of another tower is a minimum of one hundred (100) percent of the proposed tower height to ensure its collapse will be contained within an unoccupied area. This requirement may be waived by the Planning Commission if certain standards are met by the applicant. Certification from a licensed design and/or construction engineer that the tower designed and/or constructed in such a way to collapse onto itself or crumple in the event of a structural failure. Additionally, a statement must be provided as to the size of the fall radius required should the entire tower be involved in the structural failure. **(Amended by Resolution 05-04-12, April 25, 2005)**
2. Except as specifically required by the FAA or the FCC, communication tower structures shall be colors of gray or silver only to reduce their visual impacts, shall not be illuminated and shall not use strobe lights.
3. Any proposed tower shall be structurally designed so as to encourage co-location by future additional users.
4. No advertising or display is permitted on any communication tower.
5. Any on-site accessory structure shall only be used for the storage of necessary on-site equipment and/or electronics.
6. Landscaping and vegetative buffers should be installed to reduce visibility from the road and surrounding property.
7. The tower base, all guy wires and equipment areas shall be enclosed with a fence no less than six (6) feet in height so as to prevent uncontrolled access by children, pets and others from the street or adjacent properties. Said fencing shall be locked and maintained in good condition.

8. Approval by the Planning Commission shall be valid for a period not to exceed twelve (12) months. If start of construction of the actual tower has not begun within twelve (12) months, approval shall expire and the applicant will be required to resubmit plans for approval based upon standards outlined in the Zoning Resolution at the time of re-submittal.

3.070. Abandoned Vehicles

A. Violation of Zoning Ordinance (**Amended by Resolution 05-04-12, April 25, 2005**)

The open storage of more than three (3) abandoned or inoperative motor vehicles on any lot or parcel for a period exceeding thirty (30) days shall be unlawful and considered to be a violation of this zoning resolution, unless the storage takes place upon the site of one of the following:

1. The site of a properly zoned automobile “Dismantler/Recycler” that is listed by the Tennessee Motor Vehicle Commission.
2. The site of a properly zoned junkyard, salvage yard or automobile wrecking yard that is licensed as a business establishment.
3. The site of a properly zoned car repair or towing establishment.

B. Evidence of Violation

The presence of any such vehicle or parts thereof is hereby declared to be evidence of a violation of this zoning resolution. Such violation is punishable as provided in Article VIII, Section 8.100, Penalties.

C. Exemptions

1. Vehicles meeting the following conditions are exempt from this provision:
2. Any motor vehicle over twenty-five (25) years in age that is retained by its owner for collection purposes rather than for salvage or for transportation; said vehicle shall be maintained in operable condition and may be required to be kept within building where it is not visible from any adjacent property or public right-of-way.
3. Any motor vehicle in operable condition specifically adapted or constructed for racing.
4. Any abandoned, wrecked, junked, partially dismantled or inoperative motor vehicle kept within a building.
5. Any farm machinery, specifically including tractors but not trucks.

3.080. Quarries. The following regulations shall apply to all quarries: **(Amended by Resolution 07-10-02, October 22, 2007)**

A. No portion of any quarry may be located within a two-mile radius of any of the following:

1. any public or duly licensed private facility;
2. any existing duly licensed day care center;
3. any public park,; or
4. any hospital, assisted living facility or nursing home.

3.090. Solid Waste Landfills Restrictions. The following regulations shall apply to all solid waste landfills, excluding the expansion of existing landfill sites:**(Amended by Resolution 07-08-09, August 27, 2007) (Amended by Resolution 12-08-01, August 14, 2012)**

A. Application Requirements: All Applicants for a solid waste permit must meet the following requirements before becoming eligible to apply for or receive any required approval from Marshall County Board of Zoning Appeals or the Marshall County Planning Commission under this Resolution, including but **not** limited to, approval as a special exception. **(Amended by Resolution 09-04-10, April 27, 2009)**

- 1.) Receive approval by the Marshall County Board of Commissioners under the applicable Jackson Law
- 2.) Submit an Environmental Water Impact Statement for any and all lands impacted equivalent to the scope **THAT TDOT REQUIRES** of any project that has federal funds provided. This study shall be complete and conform to all current federal guidelines for an Environmental Water Impact Study or the Statement will not satisfy this requirement. **(Amended by Resolution 09-04-10, April 27, 2009)**
- 3.) Submit an Environmental Assessment, equivalent in scope to a NEPA analysis for all federally funded projects, for any and all lands subject to potential impact. This study shall be completed by a certified NEPA Compliance Officer and conform to all federal guidelines, or the Assessment will not satisfy this requirement. **(Amended by Resolution 09-06-15, June 16, 2009)**
- 4.) Plans Required
 - a. Plan of general area (within a one (1) mile radius of site) shall be prepared at a scale of one thousand (1,000) feet to the inch or less with a ten (10) foot contour interval or less to show: **(Amended by Resolution 09-06-06, June 16, 2009)**

- (1) Existing Data
 - a. Location of the proposed site.
 - b. Surrounding land use pattern including building locations and historical sites and buildings within a one (1) mile radius of proposed site.
 - c. Roads: indicating major roads and showing width, weight loads, types of surfaces, and traffic data.
- (2) Site and Geological Data
 - a. Soil and geology, with soil borings on a one hundred (100) foot grid for disposal or storage facilities and a five hundred (500) foot grid for extractive operations.
 - b. Surface drainage patterns.
 - c. Groundwater movements and aquifer information.
 - d. Aquifer recharge data.
 - e. Vegetation cover on the site and dominant species.
 - f. Climate, precipitation, and wind direction.
- (3) Proposed Operation of the Site
 - a. Extraction Operations
 - i. Type of material to be removed.
 - ii. Annual removal rate.
 - iii. Methods of extraction, including types of equipment, use of conveyors, use of blasting materials.
 - iv. Supplementary processes, drying, grading, mixing or manufacturing.
 - v. Estimated life of the operation and maximum extend of area disturbed, final depths, and side wall slopes.
 - vi. Approved sediment erosion control plan.
 - b. Disposal Facilities
 - i. Approximate number of cubic yards or thousands of gallons of waste to be accepted per day.
 - ii. Detailed description of the operation.
 - iii. Method of protecting wastes from exposure to wind, rain, or biological influences.
 - iv. Types of liners or other barriers to prevent movement through the soils.
 - v. Types of leachates generated and method of managing these materials.
 - vi. Type and origination of the waste materials.
 - vii. Average number of vehicles entering the site and the routes taken to get there.
 - viii. Ability of roads and bridges to support such loadings.
 - ix. On-site management techniques used to protect against odor, dust, litter, animal or insect vectors.
 - x. Data on developments that have been submitted to the County for either building permits, zoning reviews, subdivisions or land developments.

- (4) Conformance to State and Federal Regulations
 - a. All aspects of the extraction or disposal use must conform to applicable State and Federal regulations.
 - b. Plan of proposed site at a scale of one hundred (100) feet to the inch or less with a two (2) foot contour interval or less to show:
 - (1) Basis Data
 - a. Soils and geology.
 - b. Groundwater data and water courses
 - c. Vegetation: with dominant species.
 - d. Wind data: directions and percentage of time.
 - (2) Proposed Use
 - a. Final grading by contours.
 - b. Interior road pattern: its relation to operation yard and points of ingress and egress to State and County roads.
 - c. Estimated amount and description of aggregate and overburden to be removed.
 - d. Ultimate use and ownership of site after completion of operation.
 - e. Source of water if final plan shows use of water.
 - c. Plan of Operation Showing:
 - (1) Proposed tree and berm screen locations.
 - (2) Soil embankments for noise, dust, and visual barriers, and height of soil mounds.
 - (3) Method of disposition of excess water during operation.
 - (4) Location of typical schedule of blasting
 - (5) Machinery: type and noise levels
 - (6) Safety measures: monitoring of complaints
 - d. End Use Plan

An end use plan for the rehabilitation of the site after the extraction or disposal operation is completed shall be submitted and must be approved. Such plan shall show and provided for either a final end use or an open space use. If it is to be open space use, documentation as to who shall own and maintain such site or restrictive easements must be presented as well as a final contour and site plan submittal. If there is an end use other than open space, the engineering data on the length of time needed for the restoration work to settle sufficiently to provide a stable base for the proposed end use shall be submitted. For all such uses, proper legal documents must be presented that outline:

- (1) post operation maintenance procedures; and
- (2) legal responsibility for any environmental pollution that could occur after the facility is closed; and
- (3) Financial ability to clean up any possible pollution that could occur after the facility is closed.

2. Performance

- a. Operations. Extractive operations shall meet all development and performance standards of this Ordinance and all applicable local, state and federal regulations.
- b. Setbacks. No excavation, quarry wall, or storage area shall be located within fifty (50) feet of any lot line, one hundred twenty-five (125) feet from any street right-of-way, nor within two hundred (200) feet of any residential property line.
- c. Grading. All excavations shall be graded in such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life. (See Section 4520 N, & PP).
 - (1) Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation.
 - (2) Grading and backfilling may be accomplished by use of construction rubble such as concrete, asphalt, or other materials, providing such materials are composed of non-noxious, noncombustible solids.
 - (3) Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed the normal angle of slippage of such material, or thirty-three (33) degrees in angle, whichever is less. During grading and backfill, the setback requirements in paragraph b., above may be reduced up to one-half, so that the top of the grading slope shall not be closer than twenty-five (25) feet to any lot line, seventy-five (75) feet to any street line, nor within one hundred (100) feet of any nature reserve or zoning district boundary line. **(Amended by Resolution 10-03-05, March 22, 2010)**
 - (4) When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven (7) feet horizontal to one (1) foot vertical, beginning at least fifty (50) feet from the edge of the water and maintained into the water to a depth of five (5) feet.

- (5) Drainage shall be provided, either naturally or artificially, so that disturbed areas shall neither collect nor permit stagnant water to remain. Backfilling and grading shall be done so as to restore surface and subsurface drainage to their original patterns.
- d. Access. Truck access to any excavation shall be so arranged as to minimize danger to traffic and nuisance to surround properties.
- e. Mitigation of Road Damage. A bond must be determined by, posted with, and accepted by the County to cover the potential damage to public roads, caused by the development, operations, and rehabilitation of the subject property prior to the commencement of site work and/or operations.
- f. Planting. When planting is the final use to which the tract is put, all that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A planting plan shall be prepared for the entire finished tract using various types of plant material that prevent soil erosion and provide vegetation cover. When buildings are proposed as part of the final use to which the tract is put, areas adjacent to proposed buildings shall be planted with a vegetation cover in keeping with the requirements of the ultimate building purposes.
- g. Subsequent Development of Extraction of Disposal Sites. All buildings site shall be required to be tested for the presence of radon. Tests results shall be submitted to the County Planning Department. Structures erected on such sites shall be required to include provisions such as vented basements and air exchanges to ensure proper ventilation.

B. Locational Criteria: No portion of any solid waste landfill may be located within a two (2) mile radius of any of the following: **(Amended by Resolution 10-03-05, March 22, 2010)**

- 1. any public or duly licensed private school facility;
- 2. any existing duly licensed day care with twenty (20) children or more capacity;
- 3. any public park; or
- 4. any hospital, assisted living facility or nursing home.

C. Dailey Operational Criteria:

- a. A peripheral buffer zone shall be established and maintained throughout the life of the facility along all property boundaries. The buffer zone shall

comprise no less 30% of the total property involved (i.e. a 100 acre property would require that 30 acres be designated peripheral buffer zone to be equally distributed along the property boundaries. Further, the peripheral buffer zone shall be designed in such a manner that it shall not be less than two hundred fifty (250) feet at any point along the property boundary. This buffer will consist of three (3) rows of trees and shrubs placed no more than twenty (20) feet apart, staggered with each row being twenty (20) feet apart. A minimum of sixty (60) percent of all trees and shrubs placed in the buffer shall be evergreens and conifers. All trees planted on the site shall be a minimum of ten (10) feet in height that will mature at a height of forty (40) feet. In addition to the row of trees, a row of shrubs in front of the trees is required along road frontage. In addition to the required planting, it is suggested that manmade and natural berms be used to further the effectiveness of the natural planted buffer. The peripheral buffer zone should only be broken by driveways, and walkways that provide access to the site. Any required fencing shall not be located within the buffer zone and property boundaries.

- b. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
- c. All separation or picking of waste materials shall be conducted in an enclosed building only
- d. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method.
- e. Entrance to the site shall be controlled at all times to prevent improper dumping on the site. (**b,c,d,e Amended by Resolution 08-03-05, March 24, 2008**)

D. Closure and Post-Closure Plans: As previously mentioned in 3.090A 4.d. End Use Plan, a detailed description of post-operation maintenance procedures must be delineated. The PCC shall cover a maintenance period of no less than 30 years to ensure that the solid waste facility is carefully managed after its closure and that there are no potential threats to human health or the environment. Owner/operators also required to continue monitoring and maintaining the landfill once it is closed to protect against the release of hazardous constituents to the environment.

1. Closure Plans and Standard:

Once a MSWLF has received its final shipment of waste, it must begin closure operations within 30 days. A MSWLF, however, may delay closure for up to one year if additional capacity remains. Any further delays after one year require approval from the state director. After beginning, all closure activities must be completed within 180 days (with the exception of an extension from the state director). The Owner/operator of a closed MSWLF must prepare a written closure plan than provides:

- A description of the final cover design and its installation methods and procedures, in accordance with all state and federal regulations, including the Tennessee Department of Environment and Conservation's Rule Chapter 1200-1-7-.02, Solid Waste Storage, Processing and Disposal Facilities, and Rule Chapter 1200-1-7-.03,-.04, Financial Assurance and Specific Requirements.
- An estimate of the largest area of the landfill requiring a final cover.
- An estimate of the maximum inventory of waste on site during the landfill's active life.
- A schedule for completing all required closure activities.

2. Post-Closure Care Plan: Post-closure care activities consist of monitoring and maintaining the waste containment systems and monitoring groundwater to ensure that waste is not escaping and polluting the surrounding environment. The PCC shall delineate specific methods, techniques, and frequency for the proper maintenance and treatment of the collect leachate runoff, capture or release of the landfill gas (methane), and the final cap and cover system, including groundwater quality testing and soil sampling and analysis to ensure the integrity and effectiveness of the various systems. After closure is complete, the owner/operator then must certify that the closure has been completed in accordance with the official closure plan. This certification must be signed by an independent, registered professional engineer or the state director. At this time, the MSWLF owner/operator also must make a notation on the property deed indicating that the land was used as a landfill and that its future use for other activities is restricted. The name, address, and telephone number of the person to contact during the post-closure care period must be on this certification.

At the end of the post-closure care period, the owner/operator must certify that the post-closure care has been completed in accordance with the official post-closure care plan. This certification must be signed by an independent, registered engineer or the state director. Once signed, the certification is placed in the facility's operating record.

- E. Performance Bond Required: Any application for final site plan approval shall be accompanied by a performance bond in the amount of the estimated cost of site improvements including, but not limited to water and sewer installation, parking lot and driveway paving, construction of fencing, screening, peripheral buffer zone, and landscaping. The amount shall be set by the planning commission and may be in the form of cash, certified check, irrevocable letter of credit, or surety bond.

In the event that the applicant fails to comply with the approved site plan, the Building Inspector shall cause the bond to be forfeited and have the necessary improvements constructed or completed. The time for completion may be extended with the permission of the planning commission, upon the owner-builder furnishing a bond or letter of credit for any approved extended period. Posting of the required performance bond by the developer shall constitute prior permission for the proper designated parties to enter upon said property to complete these improvements. (**C, D, E, Amended by Resolution 10-03-05, March 22, 2010**)

3.100. Criteria for Donated Lots to be Used as Parks : (**Amended by Resolution 08-08-08, August 07, 2008**)

A. Platted lands donated to the county to be used as public parks shall:

- Not require a minimum lot size
- Not require any physical public improvements
- Not require any water, sewer, or electrical utilities
- Not require the identification of a build-able site
- Be allowed in all zones

B. In addition, all platted lands donated to the County to be used as a public parks must:

- Be free of any hazardous waste or materials, such as leaking oil tanks, underground storage tanks, chemical drums, pesticides, PCBs, etc.
- Be free of liens or payments outstanding and have a clear title
- Be free of previously placed deed restrictions that the County will not legally be Able to uphold
- Be free of physical safety and health hazards, such as land in an avalanche zone, A building with asbestos, unsafe slopes, etc.
- Be free of conditions that would require County investment to make the land viable as a public park

In addition, all platted lands donated to the County to be used as public parks must meet three (3) of the following:

- Be located within or adjacent to public land, for the purposes of expansion or allowing a more comprehensive conservation management strategy
- Be located in a private area that is easily accessible by the public
- Be located in an area that serves a population with high need for recreation facilities
- Possess high recreational, scenic, or intrinsic natural value

- Possess high wildlife habitat value, such as wetlands, migration corridors, breeding grounds, calving areas, grazing lands, waterfowl sanctuaries, or valuable fisheries properties
- Extend public access to linear park lands like greenways, or allow public access to rivers, lakes, or streams
- Offer special natural protection for native endangered species
- Possess historic or cultural value, through the physical land or structures
- Possess characteristics ideal for an outdoor nature classroom for educational purposes or demonstration purposes (streambank restoration, student water quality testing, ecosystem inventory, etc.)
- Enhance the Marshall County parks and recreation system through variety and choice for the overall quality of life of Marshall Countians

3.110. Solid Waste Transfer Station Restrictions: (**Amended by Resolution 09-04-09, April 27, 2009**)

- a. All areas used for filling operations shall maintain the minimum setbacks as required by this section.
- b. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
- c. All separation or picking of waste materials shall be conducted in an enclosed building only.
- d. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method.
- e. Entrance to the site shall be controlled at all times to prevent improper dumping on the site.

3.120. Recycling Center Restrictions:(**Amended by Resolution 09-04-09, April 27, 2009**)

- a. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
- b. All separation or picking of waste materials shall be conducted in an enclosed building only.
- c. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method.
- d. Entrance to the site shall be controlled at all times to prevent improper dumping on the site.

3.130. Outdoor Firearms Training Facilities and Shooting Ranges on County-Owned Property: (Amended by Resolution 09-07-15, July 21, 2009)

The purpose of these facilities are to safely train individuals, including law enforcement employees and the general citizenry, in the proper handling and use of firearms in a County-owned setting with minimal impact to adjacent properties. The following regulations shall apply to all outdoor firearms training facilities, ranges, and related activities located on County-owned property.

A. The location of such an activity shall be subject to the following conditions:

1. The parcel must be owned by the County, and, as thus, this specific land-use activity will be exempt from any particular zoning classification. Therefore, outdoor firearms training facilities and ranges on County-owned lands will not be found in the Permitted Use Table. This use is only allowed as a special exception.
2. Because this use is deemed a special exception, due to the potential for this land-use activity to be a nuisance to adjacent property owners, a duly advertised public hearing through the Board of Zoning Appeals is required before the land use will be authorized.
3. The parcel must be ten (10) acres or greater area in size.
4. A berm shall be present at least twenty (20) feet high in height at the rear of the berm, at least eight (8) feet in height at the sides of the berm, four (4) feet wide at the top of the berm. Any man-made berm must be designed and certified by an engineer licensed by the State of Tennessee, as adequate.
5. The rear of the firing range must be set back at least two hundred fifty feet (250) from any occupied structures or roads.
6. The sides of the firing range must be set back at least one hundred (100) feet from the property line to the exterior base of the berm.
7. There shall be an evergreen buffer of a minimum of twenty five (25) feet wide on three (3) sides of the firing range provided by the owner/developer if a natural buffer does not exist.
8. The development, operation, and maintenance of firearms training facilities shall be in conformance with "The Range Manual" as published by the National Rifle Association (NRA).

B. The operation of the firearms training facility and related activity shall be subject to the following conditions:

1. The hours of operation shall be limited to daylight hours only.
2. Decibel levels measured at the property lines shall not exceed seventy (70) dB.
3. The owner/developer shall provide two (2) parking spaces per firing point or firing lane, plus one (1) additional space for each employee.

4. The owner of the facility shall provide on-premises documentation that all Federal and State regulations have been met.
5. A site plan shall be required pursuant to the plot plan requirements listed in Article III, Section 2.080. In addition to the site plan, the owner/ developer shall submit a sound abatement plan and a safety plan. The Board of Zoning Appeals may require additional fencing, buffering, baffles, or may deny the request if the site plan does not or cannot meet the above-mentioned purposes, standards, and requirements, or if other significant health and safety issues are present.
6. A notice shall be published of such request together with a notice of the time set for a public hearing by the Board of Zoning Appeals. Said notice shall be published one (1) time in a newspaper of general circulation in the County of Marshall, Tennessee. In addition, a sign shall be placed in a conspicuous, centrally located point on the property no farther than five (5) feet from the right-of-way. Said hearing by the Board of Zoning Appeals shall take place no sooner than fifteen (15) days after the publication of such notice and placement of a sign.
7. Before initial business startup, the soil shall be tested for lead content. Further tests shall be done every two (2) years to keep lead concentration in the soil below 250 ppm, as recommended by the State Division of Solid Waste Management. All testing shall be performed by the developer and at his own expense. This information shall be kept on file with the Marshall County Building Inspector.

