

APPENDIX

A. ZONING ORDINANCE.

APPENDIX A

ZONING ORDINANCE

TOWN OF HORNBEAK, TENNESSEE

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ARTICLE 1

TITLE, INTENT AND PURPOSE

1.1 Title

1.1.1 Long Title

An ordinance, in Pursuance of the authority granted by the Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, to provide for the establishment of districts within the corporate limits of the Town of Hornbeak, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the size of open spaces, the density of population, and the uses of land, buildings and other structures, for trade, industry, residence, recreation, public activities and similar purposes; to provide regulations governing nonconforming uses and, structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the

provisions thereof, to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

1.1.2 Short Title

This Ordinance may be cited as the Zoning Ordinance of Hornbeak, Tennessee. The map portion may be cited separately as the Zoning Map of Hornbeak, Tennessee. (as added by Ord. #2003-01, May 2003)

ARTICLE 2

ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

2.1 Establishment of Districts

In order to implement all purposes and provisions of the Ordinance, the lands within the corporate limits of the Town of Hornbeak, Tennessee, are divided into districts designated as follows:

2.1.1 R-1 Low Density Residential District

2.1.3 C-1 General Commercial District

2.1.4 I-1 Industrial District

2.2 Provisions for Official Zoning Map

2.2.1 Incorporation of Map

The boundaries of districts established by this Ordinance are shown on the official zoning map which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety including all amendments shall be as much a part of this ordinance as is fully set forth and described herein.

2.2.2 Identification of the Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Recorder together with the date of the adopting of the Ordinance. (as added by Ord. #2003-01, May 2003)

ARTICLE 3

GENERAL PROVISIONS AND PARKING REQUIREMENTS

3.1 General Provisions

For the purpose of this Ordinance, there shall be certain general provisions which shall apply to the Town as a whole.

3.1.1 Zoning Affects Every Building and Use

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

3.1.2 Continuance of Nonconforming Uses and Structures

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

(a) An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification; provided; however, that establishment of another nonconforming use of same classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.

(b) No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided.

Non-conforming, commercial, business, and industrial uses created after the passage of Tennessee Acts of 1973, Chapter 279.1 shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being

conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.

- (c) Except as provided in Chapter 279.1 of the 1973 Tennessee Acts.
1. A non-conforming use of land shall be restricted to the area occupied by such at the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.
 2. When non-conforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other non-conforming use.
 3. Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before if it is done within twelve (12) months of such damage, unless damaged to the extent of more than sixty (60) percent of its fair sales value immediately prior to damage, in which case any repair or reconstruction shall be in conformity, with the provisions of this Ordinance. However, non-conforming residential structures, including mobile homes, shall be replaced if damaged or destroyed, provided the structure is replaced within twelve (12) months. Replacement mobile homes must meet the latest HUD regulations for both construction and installation.
- (d) A non-conforming building of buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

3.1.3 Minimum Required Street Frontage

No structure shall be erected on a lot which does not abut at least one public street.

3.1.4 Reduction in Lot Area Prohibited

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

3.1.5 Lots of Record

Where the owner of a lot of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Permission to use such lot as a building site may be granted, however, providing that the yards and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals. Where two or more substandard lots of record with continuous frontage are 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.

3.2 Off-Street Parking

3.2.1. General Provisions

In all districts, when any building or structure is constructed or at the time any main building or structure is enlarged or increased in capacity to be additional dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off street parking shall be provided of at least two hundred (200) square feet per space with vehicular access to a street or alley as set forth below. The Town reserves the right to control ingress and egress over private right-of-way, Off-street parking space shall be deemed to be required open space associated with the permitted uses, and shall not hereafter be reduced or encroached upon in any manner.

- (a) Dwelling: Not less than two (2) spaces per dwelling unit.
- (b) Boarding Houses, Rooming Houses: One (1) space per dwelling unit.
- (c) Hotel, Motel and Tourist Courts: One (1) space for each unit in a building.
- (d) Public Buildings: One (1) space for each 200 square feet of total floor area of all floors in the building except basement.
- (e) Office Buildings: One (1) space for each 200 gross square feet of all floors in the building.
- (f) Retail Sales and Services: One (1) space for each 200 gross square feet of floor area.
- (g) Theaters, Auditoriums, Churches or Other Places of Assembly: One (1) space for each 5 seats provided in such place of assembly.

(h) Clinic or Medical Office: Five (5) patient parking spaces per doctor, plus two (2) for each three employees plus one (1) per staff doctor.

(i) Other: For buildings and uses not listed, the off street parking requirement shall be determined by the Board of Zoning Appeals.

3.3 Signs

3.3.1. Signs shall be regulated within the Town of Hornbeak as set forth below.

- (a) Within Residential Districts signs shall be limited to:
 - 1. real estate signs of a maximum of six (6) square feet.
 - 2. home occupation signs of a maximum size of four (4) square feet.
 - 3. There shall be no illuminated signs.
- (b) Within Commercial Districts, signs shall be limited to:
 - 1. On-site signs either free standing or attached to the structure. Such signs shall not exceed a size of one square foot for each foot of road frontage.
 - 2. Off-site signs, shall be allowed advertising products or establishments not on the affected lot. Such signs shall not exceed 650 sq. ft. nor be higher than 70 feet. (as added by Ord. #2003-01, May 2003)

ARTICLE 4

DEFINITIONS

4.1 Definitions

Except as specifically defined herein all words used in this Ordinance have their customary dictionary definitions where not consistent with the context of the Ordinance. The term "shall" is mandatory. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure". In case of conflict between Building Code or dictionary definitions with the definitions contained in this ordinance, the definition herein shall prevail.

Accessory building and use: A detached building or use subordinate to the principal building or use on the same lot and serving a purpose naturally and normally incidental to the principal building or use.

Amusement: An establishment which provides: arcade type entertainments including such items as pinball machines, video games and pool tables; miniature golf; or other amusement.

Boarding House or Rooming House: A building in which lodging and/or meals are provided, for compensation for two or more persons for a prearranged time period.

Building: Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property.

Cultural Activity: Any institution concerned with the appreciation of nature and the humanities.

Dwelling: Any building or portion thereof which is designed for or used for human residential habitation. For the purpose of this Ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

Educational Services: Established schools including primarily secondary, universities, colleges, junior colleges and various private facilities.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions.

Finance, Insurance and Real Estate Services: Those establishments which provide banking or bank related functions and insurance and real estate brokers.

Governmental Agency: An agency of the Federal, State, or the Local Government or any combination thereof

Institution: A building occupied or operated by a non-profit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social, educational or similar services of a charitable character to the public.

Lot: A legally recorded parcel of land.

Lot of Record: A parcel legally recorded in the Office of the McNairy County Register of Deeds at the date of the adoption of this ordinance.

Medical Services: Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent and rest home services.

Mobile Home: A detached residential dwelling unit designed for transportation after fabrication on streets on its own wheels or on flatbed or other trailers.

Non-conforming Use: Any use of building or premises which lawfully existed prior to the adoption of, or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located.

Personal Services: Establishments which provide services to persons or households, crematory services and cemeteries.

Principal Building: A building in which is conducted the primary use of the lot on which it is located.

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

Professional Services: Those services normally provided by the established profession.

Public Assembly Facility: Institutions or installations where community activities are typically performed.

Public Uses: Facilities such as, but not limited to, parks, schools, and offices owned and operated by governmental bodies.

Public Utility: Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery of furnishing of heat, chilled air, chilled water, light, power or water, or sewage facilities, either directly or indirectly to of for the public.

Repair Services: Those establishments which fix, mend or overhaul merchandise for households or businesses, not to include automobile body shops.

Retail Trade: Those establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods.

Veterinary Hospital or Clinic: Any establishment maintained and operated by a licensed veterinarian for the surgery, diagnosis and treatment of diseases or injuries of animals. Such an establishment may include accessory boarding facilities provided they are located within a building.

Warehouse: A structure used exclusively for the storage of merchandise or commodities.

Zoning Districts: Any section of the Town for which the zoning regulations, governing the use of buildings and premises, the height of buildings, the size of the yards and the intensity of use are uniform. (as added by Ord. #2003-01, May 2003)

ARTICLE 5

RESIDENTIAL DISTRICT'S PROVISIONS

R-1 Residential District (Low Density)

Within the areas designated R-1 (Low Density) in the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

5.1.1 Uses Permitted

- (a) Single-family dwellings
- (b) Accessory buildings customarily incidental to the permitted use,
- (c) Signs
- (d) Home occupations

5.1.2 Special Exceptions

The following uses are permitted on approval by the Board of Zoning Appeals upon review of the criteria established herein:

- (a) Uses Permitted
 - 1. Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.
 - 2. Churches
 - 3. Private or parochial schools
 - 4. Accessory buildings customarily incidental to the permitted use.
 - 5. Duplexes and multi-family dwellings but not single mobile homes.

5.1.3 Minimum Area Requirements

The Principal building shall be located so as to comply with the following requirements:

- (a) Minimum Required Lot Area

- (1) Single family dwellings 10,000 sq, ft.
 - (2) Churches 1 acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater
 - (3) Schools 4 acres plus one (1) acre for each 100 students.
 - (4) Duplexes and Multi-family dwellings: 7,000 sq. ft. for the first dwelling unit plus 3,000 sq ft for each additional dwelling unit.
 - (5) Other Uses As required by the Board of Zoning Appeals
- (b) Minimum Required Lot Width at the Building Line.
- (1) Dwellings 50 feet
 - (2) Churches 200 feet
 - (3) Other Uses As required by the Board of Zoning Appeals.
- (c) Minimum Required Front Yard
- (1) Dwellings 30 feet
 - (2) Churches 50 feet
 - (3) Other Uses 50 feet or more as required by the Board of Zoning Appeals
- (d) Minimum Required Rear Yard
- (1) Dwellings 30 feet
 - (2) Churches 40 feet
 - (3) Other Uses 25 feet or more as required by the Board of Zoning Appeals
- (e) Minimum Required Side Yard on Each Side of Lot
- (1) Dwellings 10 feet
 - (2) Churches 30 feet

(3) Other Uses 20 feet or more as required by the Board of Zoning Appeals

(f) Minimum Required Side yard for Side Facing Street on Corner Lots-30 feet

(g) Maximum Lot Coverage by all Buildings

(1) Dwellings and accessory 35%

(2) Churches 40%

(3) Other Uses 50% or less as required by the Board of Zoning Appeals

(h) Maximum permitted height of structures.

(1) No building shall exceed three (3) stories or thirty-five (35) feet in height.

(2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 ½) stories or twenty-five (25) feet in height

(3) No accessory building shall exceed two (2) stories in height.

(4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property lines. (as added by Ord. #2003-01, May 2003)

ARTICLE 6

COMMERCIAL DISTRICT PROVISIONS

C-1 General Commercial.

The C-1 (General Commercial) District shall be considered a general highway oriented commercial-service oriented district. Within the areas designated C-1 (General Commercial) on the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

6.1.1 Uses Permitted

- (a) Retail trade
- (b) Wholesale trade
- (c) Services
- (d) Amusements
- (e) Recreational activities
- (f) Transient lodging
 - 1. hotels
 - 2. tourists courts
 - 3. motels
- (g) Group Quarters
- (h) Public uses, including but not limited to municipal, state, or federal uses such as schools, museums, office buildings and utilities,
- (i) Public Assembly -Limited to motion picture theaters
- (j) Accessory buildings customarily incidental to the permitted use.
- (k) Signs and Billboards

6.1.2 Special Exceptions

- (a) Similar but not listed uses are permitted on appeal by the Board of Zoning Appeals.
- (b) Mobile Home Parks are permitted on appeal by the Board of Zoning Appeals.

6.1.3 Minimum Area Requirements

- (a) Minimum Required Lot Area None
- (b) Minimum Required Lot Width at the Building Line
 - (1) Gasoline Service Stations 120 feet

- (2) Churches 100 feet
 - (3) Other Uses No minimum requirement
- (c) Minimum Required Front Yard
 - (1) All Uses 30 feet
- (d) Minimum Required Rear yard
 - (1) All Uses 15 feet
- (e) Minimum Required Side yard on Each Side of Lot
 - (1) Churches 25 feet
 - (2) Other Uses None required, However, if buildings do not have common, or adjoining walls, there shall be a side yard of at least 10 feet
 - (3) On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the residential district.
- (f) Minimum Required Side Yard for Side Facing Street on Corner Lots 30 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures.
 - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height.
 - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 ½) stories or twenty-five (25) feet in height.
 - (3) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances, and provided that they are located a distance

equal to their own height plus 10 feet from the nearest property line. (as added by Ord. #2003-01, May 2003)

ARTICLE 7

INDUSTRIAL DISTRICT PROVISIONS

I-1 General Industrial District

7.1.1 Uses Permitted.

Animal hospitals; bottling works; building materials yard; contractors; yards; dairies; dying and dry cleaning works; electric welding; feed or fuel yards; fruit canning or packing; ice plants; laundries; machine shops; milk distributing stations; optical goods; paper manufacture; printing, publication or engraving concerns; tinsmith shops; trucking terminals; public utilities, including water and sewage treatment plants; warehouses, and any other uses which in the opinion of the Municipal Board of Zoning Appeals are similar in character to those enumerated in this Section and will not be detrimental to the district, subject to such conditions and safeguards as may be required by the Municipal Board of Zoning Appeals. All uses permitted in the Light Industrial Districts are permitted in the General Industrial Districts.

7.1.2 Possible Uses Permissible on Appeal.

Any use not in conflict with any other ordinance of the Town of Hornbeak, Tennessee, provided, however, that the following uses shall be permitted only with the written approval of the Municipal Board of Zoning Appeals auto wrecking, bag cleaning; central mixing plant for cement, mortar, platter, or paving materials; curing, tanning, and storage of raw hides and skins; fat rendering; metal fabrication plants; gasoline or alcohol storage above ground in excess of five hundred (500) gallons; junk, scrap paper, rag storage and baling; slaughter houses or stock yards; manufacture of bleaching powder, chemicals, brick, pottery, terra cotta or tile; manufacture of candles or disinfectants, dyestuffs and fertilizers; manufacture or storage of illuminating or heating gas; manufacture of linseed oil, paint, oil, turpentine, varnish, soap and tar products; raw metal processing; and any other uses which in the opinion of the Municipal Board of Zoning Appeals would not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, or other objectionable conditions.

7.1.3 Required Yards.

7.1.3(a) All buildings and structures shall be located so as to comply with the following:

Minimum depth of front yard	35 ft.
Minimum depth of rear yard	20 ft.
Minimum width of each side yard	10 ft.

7.1.3(b) On lots adjoining a residential t all buildings shall be located so as to comply with the side yard requirements of such residential district.

7.1.4 Parking Space Requirements. To be Determined later.

7.1.5 Landscape Treatment.

7.1.5(a) Each site shall be developed with ten percent (10%) of its area landscaped. Along the street property line a strip of landscaped ground of a minimum width of 10 feet exclusive of drives and walks shall be provided maintained.

7.1.5(b) Landscape treatment shall not interfere with sight line requirements, nor obstruct needed views of buildings or their means of identification. All landscape should be designed for minimum maintenance; in an area difficult to maintain paving or terracing may be used as a part of the landscape treatment. (as added by Ord. #2003-01, May 2003)

ARTICLE 8

ADMINISTRATION AND ENFORCEMENT

8.1 Enforcing Officer. The provisions of this ordinance shall be enforced by the Mayor or his designee who shall have the power to make inspection of buildings of premises necessary to carry out his duties in the enforcement of this ordinance.

8.2 Building Permits and Certificates of Occupancy.

8.2.1 Building Permit Required. It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the Mayor or his designee has issued a building permit for such work.

8.2.2 Issuance of Building Permit. In applying to the Mayor for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height and location on the lot of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this ordinance and other ordinances of the Town of Hornbeak, Tennessee, then in force, the Mayor or his designee shall issue a building permit for such excavation or construction. If a building permit is refused, the Mayor or his designee shall state such refusal in writing with the cause.

(a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

(b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by the date on the project described herein.

8.2.3 Certificate of Occupancy. No land or building or part thereof hereafter erected or altered in its use of structure shall be used until the Mayor or his designee shall have issued a certification of occupancy stating that such land, building or part thereof and the proposed use thereof are found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Mayor or his designee to make final inspection thereof and to issue a certification of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this ordinance, or, if such certificate is refused, to state such refusal in writing with the cause.

8.2.4 Records. A complete record of such application, sketches, and plans shall be maintained in the office of the Mayor.

8.2.5 Permit Fee. A fee will be charged for issuance of a building permit.

8.3 Penalties. Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and shall be punished as provided by law. Each day such violation shall continue shall constitute a separate offense.

8.4 Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained or any building, structure, or

land is used in the violation of this ordinance, the Mayor or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure or land. (as added by Ord. #2003-01, May 2003)

ARTICLE 9

BOARD OF ZONING APPEALS

9.1 Board of Zoning Appeals Organization. The Board of Zoning Appeals shall consist of three (3) members to be appointed by the Mayor of Hornbeak - and confirmed by a majority vote by the Town Board, all of whom shall serve without pay. The term of office of the said three (3) members shall be of such length and so arranged that the term of one (1) member shall expire each year.

Vacancies shall be filled for any unexpired term by appointment by the Mayor and confirmed by the remainder of the Town Board.

9.2 Procedure for Meetings. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such times as the board may determine. All meetings of the Board and action thereon, which shall be a public record. Upon appointment, and annually, the Board of Zoning Appeals shall meet and organize and shall elect its own chairman who shall serve one year or until his successor duly qualifies.

Two (2) members of the board shall constitute a quorum.

The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of such administration official or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance or to effect any variance in such ordinance. The chief building inspector, Town engineer and planner, when requested to do so by the Chairman of the Board, shall attend such meetings of the Board and shall bring all plans, specifications, plats and papers relating to any case before the Board of Appeals.

9.3 Procedure for Appeals. An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board or bureau.

Such appeals may be taken by filing with the Hornbeak Board of Zoning Appeals or their designate a notice of appeals, specifying the grounds thereof.

The Board shall give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party shall appear in person or by agent or by attorney.

9.4 Powers of Board of Zoning Appeals

9.4.1 To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by an administrative officials in the enforcement of this Ordinance.

9.4.2 Instances Where an Exception Can be Granted

- (a) Permit the extension of a district for a distance of not more than twenty-five (25) feet where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this Ordinance.
- (b) Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Land Use Plan.
- (c) Permit special exceptions as provided for within this Ordinance.
- (d) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or a vandal, to the extent of not more than sixty (60) percent of its fair market value, and where the Board finds some compelling necessity requiring a continuance of the non-conforming use.

9.4.3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the Ordinance was a lot of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or conditions of a piece of property the strict application of the provisions of the Ordinance would result in exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

In considering all appeals and all proposed exceptions or variations to this Ordinance, the Board shall, before making any exceptions or variation from the Ordinance in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hornbeak.

9.5 Fees. Appeals to the Board of Zoning Appeals must be accompanied by the appropriate fee which shall be set by the Mayor and Aldermen. Said fee will be used to defray the cost incurred by the Town in consideration in this matter. (as added by Ord. #2003-01, May 2003)

ARTICLE 10

AMENDMENTS

10.1 General. The Town Board may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity convenience and general welfare require such amendment.

10.2 Initiation of Amendment. Amendments may be initiated by the Town Board, the Planning Commission or by an application of one or more owners or agents of property affected by the proposed amendment.

10.3 Application for Amendment - Fee. An application by an individual for an amendment shall be accompanied by a fee as set by the Mayor and Town Board of the Town of Hornbeak, and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area.

10.4 Review and Recommendation by the Planning Commission. The Planning Commission shall review and make recommendations to the Town Board on all proposed amendments to this Ordinance.

10.5 Public Hearing and Notice of Hearing. A public hearing shall be held to present this ordinance prior to the Town Board acting on all proposed amendments by final reading by the Town

10.6 Amendments Affecting Zoning Map. Upon enactment of an amendment to the zoning map which is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance. (as added by Ord. #2003-01, May 2003)

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ARTICLE 11

LEGAL STATUS PROVISIONS

11.1 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

11.2 Relationship to Other Laws and Private Restrictions

11.2.1 Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.

11.2.2 This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose lighter standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

11.3 Ordinance Provisions Do Not Constitute Permit. Nothing contained in this ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

11.4 Separability. It is hereby declared to be the intention of the Town of Hornbeak, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

11.4.1 If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be valid, such judgement shall not affect any other provision of this Ordinance not specifically included in said judgement.

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

11.5 Application of Regulation. No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the Town except as specifically or by necessary, implication, authorized by this

ordinance. Special exception uses are allowed only on permit granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structure are authorized except as prohibited specifically or by necessary implication.

11.6 Scope of Regulation

11.6.1 New Uses, Lots, Buildings or Other Structures. Upon the effective date of this ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this Ordinance.

11.6.2 Existing Uses, Lots, Building or Other Structures. Any existing use, lot, parcel, building or structure legally established prior to the effective date of this Ordinance which does not comply with the provisions shall be subject to the nonconforming use provisions of this Ordinance.

11.6.3 Alteration of Existing Buildings and Other Structures. All structural alterations or relocation of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

11.7 Violation and Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

11.8 Effective Date. This Ordinance shall be in force and effect from and after its passage on the second and final reading and adoption, the public welfare requiring it.

11.8.1 Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

11.8.2 Approved and certified by Planning Commission

_____ s/Benny McGuire _____, Chairperson of the Planning Commission

_____ s/Betty Walley _____, Attest: Secretary of the Planning Commission

11.8.3 Approved by the Mayor and Board of Aldermen on final reading

_____ 5/13/03 _____
Date

_____ s/Larry Seay _____
Mayor

Attest: _____ s/Betty Walley _____
Town Recorder