

RESOLUTION # _____

RESOLUTION TO REGULATE SPECIAL IMPACT
LAND USES IN LINCOLN COUNTY

1. Enactment

WHEREAS, Sections 13-7-101 *et seq.* of the Tennessee Code Annotated empower the County to adopt ordinances regulating the use of land which lies outside the boundaries of municipal corporations; and

WHEREAS, the legislative body of Lincoln County has determined that certain uses of land impose special burdens and impacts on persons, properties and roads surrounding them, and have significant and sometimes adverse environmental impacts; and

WHEREAS, these special impact land uses may also affect the orderly development of the County; and

WHEREAS, the legislative body of Lincoln County deems it necessary for the purpose of promoting the public health, safety and general welfare of the County to enact this ordinance and resolution regulating such special impact land uses; and

NOW, THEREFORE, be it ordained by the County Commission of Lincoln County, Tennessee, that this ordinance and resolution be enacted into law.

2. Purpose

The purpose of this resolution is to promote the public health, safety and welfare by regulating the areas in which land uses with special impacts may be located, by authorizing the legislative body to impose controls on such special land uses in areas where they are allowed, and to otherwise grant the legislative body of Lincoln County authority from time to time to create classifications of land uses and districts in which such uses may be carried on.

3. Establishment of Land Use Classifications and Districts There shall be two land use districts in the County:

- (A) General Purpose – The General Purpose (GP) District allows all land uses except for those classified by the Board of Commissioners as Special Impact Land uses.
- (B) Special Impact Land Use – The Special Impact District (SI) allows only those uses classified as Special Impact Land uses hereunder.

4. SI, Special Impact District

A. District Description and Purpose

This district, which encompasses only rural areas as defined by the Growth and Annexation Plan, is designated to provide suitable areas for those uses which have some special impact or uniqueness such that their effect on the surrounding area and environment cannot be determined in advance of the use being proposed for a particular location and without considering the particular use, its suitability to the location and the controls and criteria proposed to mitigate the impacts of the proposed use. At the time the application is filed, a review of the location, design configuration and its impact will be conducted by the Lincoln County Regional Planning Commission by comparing the proposed use, the preliminary development plan, the operational data, and the environmental assessments to the site location criteria.

The review considers the proposal in terms of existing zoning and land use in the vicinity of the site, planned and proposed public and private developments which may be adversely affected by the proposed use, whether the proposed location is the most desirable site for this type of use and to what extent the public health, safety, and general welfare of the citizens of Lincoln County will be affected.

B. Site Location Criteria

The following criteria are examples of considerations that may be used in evaluating an application to rezone property to SI but shall not diminish the discretion of the Lincoln County Regional Planning Commission nor preclude consideration of other criteria.

1. The proposed site will be located in an area apart from concentrations of residential developments and community facilities where concentrations of people will be present.
2. The proposed use does not have the potential to pollute or deteriorate air quality, surface or subterranean water, or any other natural features.
3. The proposed site will not be located in an area where it has the potential to contaminate the source of an existing public water supply.
4. The proposed site will be free of sinkholes, caves, caverns or other karst features that would present significant potential for surface collapse or significant degradation to local ground water resources.
5. The proposed site will be adequately served by public utilities and services to ensure a safe operation.
6. The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentrations which would be endanger community safety.
7. Access to the site will be from a road classified as an arterial or collector road that is adequate for the use contemplated.
8. The proposed site will not be located within a one hundred (100) year flood plain or wetland.
9. The size of the site on which the proposed use is to be located is adequate to mitigate substantially all off site impacts on surrounding property.
10. Whether the proposed use promotes the public health, safety, and welfare or has potential adverse environmental or development impacts.

C. Administrative Procedure

The provisions of this section shall govern all applications for rezoning to the SI, Special Impact District.

1. Preliminary Review

All applications for rezoning to the SI, Special Impact District shall be made by the landowner or his/her authorized agent to the Lincoln County Regional Planning Commission in accordance with the provisions of this section. All applications for rezoning shall be accompanied by a fee of Forty Dollars (\$40.00) to defray costs resulting from the application, and by:

(a) Documents disclosing the identity of all owners, lessors, optionees, contract purchasers/lessors, or other persons having any present or anticipated future financial interest in the site.

(b) Copies of all required state or federal permits.

(c) If property is to be acquired or leased, copies of all options, purchase contracts, leases, and similar documents.

(d) Preliminary Development Plan, to include the following information:

(1) Letter from the owner detailing and authorizing the proposed zoning change.

(2) Location map of the proposed site, including size and shape of the property.

(3) Site plan and topographic map prepared by a Tennessee licensed engineer at a scale of one inch equals two hundred feet (1"=200') and contours at two foot intervals.

(4) Land use evaluation, including all building locations and historic sites within a two (2) mile radius of the proposed site, and names of property owners.

(5) Haul route and highway assessment showing all roads with access to the property, school bus routes, the existing width, condition, type of surface, weight loads and existing traffic data, and classification of all access roads.

(6) Location and approximate dimensions of all structures, including approximate height and bulk and the utilization of all structures and land areas within the site.

(7) In the case of mining, a reclamation plan and reclamation bond in the amount of \$95,000 per acre for each acre to be classified as SI.

(8) Proof of liability insurance if blasting is to be conducted in an amount no less than \$10,000,000.00.

(9) A tabulation of the land areas to be devoted to all uses and activities.

(10) Ability of the site to be able to meet the Site Location Criteria in Subsection B, above, along with any requirements for specific uses.

(e) Operational Data to Include the Following Information:

(1) Type of operation and detailed description of the operation.

(2) Average number of vehicles entering and leaving site on a daily basis and the routes taken.

(3) Types of Federal and State permits required for operation of the proposed facility.

- (4) Safety measures to be used on site as well as the system for dealing with complaints.
- (5) Ultimate use and ownership of the site after completion of operation (landfills only).
- (6) Reclamation of the site.
- (f) Environmental Assessments to Include the Following Information:
 - (1) Geological data on the site prepared by a Tennessee licensed geologist.
 - (2) Surface and ground water assessment of effects of the proposed use on the ground water quality in the area.
 - (3) Effects of the proposed use on air quality in the area.
 - (4) Potential danger to any surface water or water supply.
- (g) Site and Geological Data
 - (1) Soil and geology, with soil borings to a point of refusal, with a minimum of two (2) borings per acre.
 - (2) Final grading and drainage plan for the entire site, including surface drainage patterns, and all areas for surface water detention or retention.
 - (3) Ground water movements and aquifer information.
 - (4) Existing vegetation cover on the site.
 - (5) Annual climate of the area, including precipitation and wind¹ direction.

2. Zoning Amendment

After the application is complete, the Lincoln County Regional Planning Commission shall have 30 days within which to recommend approval or disapproval of the proposed rezoning. If the Planning Commission fails to approve or disapprove the application within the 30 day period, it shall be deemed approved. Approval or disapproval shall serve as a recommendation only to the legislative body of Lincoln County. Before finally approving any such rezoning, the legislative body of Lincoln County shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the County. Approval of any such rezoning shall require the affirmative vote of a majority of the entire legislative body of Lincoln County.

3. Final Development Plan Review

After approval of the rezoning by the legislative body of Lincoln County, the applicant may make application to the Regional Planning Commission for approval of the final development plan, provided that the plan is in compliance with the preliminary development plan. All final development plans shall include the following information:

- (a) Final site plan prepared by a Tennessee licensed engineer for the development to include location of all buildings, interior roads and parking areas, detailed landscaping plan of the buffer zone prepared by a landscape architect, location and type of all fences, utilities,

and all other features and facilities to be installed or used in connection with the proposed operation.

- (b) Site plan to be at scale of one inch equals two hundred feet (1"=200').
- (c) Contours at vertical intervals of not more than two (2) feet where the proposed development has an average slope of five (5) percent or less, or at vertical intervals of not more than five (5) feet where the average slope exceeds five (5) percent (contours to be field surveyed or taken from aerial photographs acceptable to the planning commission).
- (d) Stages of development of the site and the expected time of completion.
- (e) Copies of all required Federal and State permits.
- (f) Update of all information required to be submitted with rezoning application to assure all such information is current.

Any changes to the preliminary development plan shall require the approval of both the Regional Planning Commission and a majority of the entire legislative body of Lincoln County (after appropriate public hearing) in the same manner as the original application was approved.

D. Uses Permitted

The following uses are permitted in the SI, Special Impact District

- (A) Uses
 - (1) Arsenals
 - (2) Atomic Reactors
 - (3) Explosives Manufacturing and Storage
 - (4) Fireworks Manufacturing
 - (5) Hazardous Waste
 - (6) Radioactive Wastes
 - (7) Solid Waste Landfills
 - (8) Solid Waste Processing and Recycling
 - (9) Waste Incinerators, Including Hospital and Medical Waste
 - (10) Mining and quarrying
 - (11) Asphalt and concrete plants
 - (12) Slaughter houses and rendering plants, and
 - (13) Any other use with characteristics comparable to the above uses which, in the opinion of the Regional Planning Commission:
 - (a) imposes special or unusual burdens on roads or poses a special or unusual traffic hazard;

- (b) has special or unusual infrastructure requirements;
- (c) poses special or unusual risks for local environmental resources;
- (d) may pose a health risk to residents of properties in close proximity to the proposed use;
- (e) has special and unusual noise characteristics associated with it; or
- (f) causes vibration, gas, smoke, or odor which impact surrounding properties.

E. Accessory Uses and Structures

Accessory structures and uses customarily incidental to the permitted uses, provided that such accessory uses are carried out on the same lot and are not otherwise prohibited.

F. Uses Prohibited

In the SI, Special Impact District, any use not permitted by right or by accessory use as defined above is strictly prohibited.

G. Change in Use

Notwithstanding anything contained herein to the contrary, and in addition to the uses prohibited by subparagraph F above, no use permitted by subparagraph D above other than that applied for in the original application for rezoning shall be permitted in the SI, Special Impact District unless and until the owner or his or her agent shall have obtained a special use permit therefor, which shall be granted only upon compliance with the requirements of this ordinance for a rezoning of property to SI, Special Impact District, including without limitation the submittal to the Regional Planning Commission of an application with all supporting documentation and studies required for a rezoning to SI, Special Impact District, and the approval of a majority of the entire County legislative body.

5. Exceptions and Modifications

5.01 Scope Article 5 of this resolution is devoted to providing for the necessary exceptions and modifications to the specific zoning district Provisions.

5.02 Nonconforming Use It is the intent of this resolution to treat existing nonconforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights and to recognize that certain uses must expand over time in order to continue to exist. Lawful nonconforming uses, buildings, and structures existing at the time of the passage of this resolution or any amendment thereto and which have all required local, state, or federal permits shall be allowed to continue subject to the following provisions:

- A. When a nonconforming use of any structure or land has been discontinued or ceases for a period of one (1) year, it shall not be reestablished or changed to any use not in conformity with the provisions of this resolution.
- B. Any nonconforming building or nonconforming use which is damaged by fire, flood, wind, or act of God, may be reconstructed and used as before, if done within one (1) year of such damage, in which case any repair or reconstruction shall be in conformity with the provisions of this resolution.
- C. On the adoption of this ordinance, any property on which an SI use is currently being conducted and for which the owner or operator of such use holds all

required state, local or federal permits, shall be classified as SI upon the request of the owner or lessee of such property and proof that the property presently has all required permits for the operations as they are then being conducted. Only that portion of the property on which the use is actually being conducted pursuant to the above referenced permits, together with every contiguous parcel under common ownership or lease shall be classified as SI. Provided further, however, that the only permitted use on any such property as described in this Paragraph shall be the SI use being conducted at the time of the adoption of this ordinance, together with any appropriate accessory uses, including accessory uses that may be added in the future. A change from the existing SI use to any other SI use shall require a rezoning of the property, or, if the property has already been classified as SI under the terms of this subparagraph C shall require an application for a special use permit, which shall be granted only upon compliance with all the requirements hereof for a rezoning of property to SI, including without limitation the submittal to the Regional Planning Commission of an application with all supporting documents and studies required for a rezoning to SI, and the approval of a majority of the entire legislative body of Lincoln County. No landowner shall be required to apply for the designation of his property as SI under the terms of this ordinance and can elect to continue an existing use which is in compliance with the provisions of Paragraph D, above.

- D. No nonconforming use shall be changed to another nonconforming use, but shall instead require compliance with the zoning amendment procedure.

5.03 Agricultural Use of Land This resolution shall not be construed as regulating the erection, construction, or reconstruction of any building or other structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural purposes, if such building or structure is incidental to the agricultural enterprise. Nor shall this resolution be construed as limiting or affecting in any way or controlling the agricultural uses of land.

6. Amendment to Resolution The regulations, restrictions, and boundaries set forth in this resolution may from time to time be amended, supplemented, changed, or repealed by the legislative body of Lincoln County in accordance with Tennessee enabling legislation.

Anyone seeking any change in the zoning plan adopted for Lincoln County must first submit such request to the Lincoln County Regional Planning Commission for a recommendation of approval or disapproval. No change or departure from the text or maps as certified by the Lincoln County Regional Planning Commission shall be made, unless such change or departure receives the favorable vote of majority of the entire membership of the legislative body of Lincoln County.

Before finally adopting any such amendment, the legislative body of Lincoln County shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the county.

- A. Fee: A fee of forty (\$40) dollars due and payable at the time of filing of the petition shall be posted with any request to amend the zoning resolution. The fee is to be used by Lincoln County to defray costs resulting from such petition and any subsequent amendment of the zoning resolution. Further, any applicant for a rezoning to SI shall be required to pay the cost incurred by Lincoln County to obtain review of any required engineering or environmental submissions by a qualified professional.

7. County Board of Zoning Appeals

A Lincoln County Board of Zoning Appeals is hereby established in accordance with Sections 13-7-106 through 13-7-109 of *Tennessee Code Annotated*. The Board of Zoning Appeals shall consist of five (5) members appointed by the legislative body of Lincoln County. The Board

members shall be appointed to five-years terms; however, the initial appointments shall be arranged so that the term of one (1) member will expire each year. One member of this board shall be a County Commissioner and another a member of the Regional Planning Commission.

7.01 Procedure Meetings of Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

7.02 Appeals to the Board An appeal to the Lincoln County Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by any decision any administrative officer based in whole or in part upon the provisions of this resolution. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The administrative officer whose action is being questioned shall transmit to the Board all papers constituting the record upon which the appeal was taken. The Board shall fix a reasonable time for the hearing of the appeal, file public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

7.03 Stay of Proceedings Any appeal stays all legal proceedings in furtherance of the action appealed from, unless the administrative officer certified to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of competent jurisdiction on application, on notice to the administrative officer whose action is being questioned, and on due cause shown.

7.04 Appeal to the Court Any person or persons or any board, taxpayer, department, or bureau of the county aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

7.05 Powers of the Board The Board of Zoning Appeals shall have the following powers:

1. *Administrative Review:* To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by any administrative officer in the carrying out or enforcement of any provision of this resolution.
2. *Special Exceptions:* To hear and decide applications for special exceptions, hear requests for interpretation of the zoning map, and for decisions on any special questions upon which the Board of Zoning Appeals is authorized to pass.
3. *Variances:* To hear and decide applications for variances from the terms of this resolution.

8. Miscellaneous Provisions

8.01 Penalties Any persons violating any provision of this resolutions shall be guilty of a misdemeanor, and upon conviction shall be fined appropriately for each offense. Each day such violation continues shall constitute a separate offense.

8.02 Remedies In case any building or other structure is erected, constructed, altered, or converted, or any building, structure, or land is used, in violation of this resolution, the Lincoln County

Regional Planning Commission or other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure or land.

8.03 Severability Should any section, clause, or provision of this resolution be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the resolution as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

8.04 Interpretation Whenever the conditions of this resolution require more restrictive standards than are required in or under any other statute, the requirements of this resolution shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this resolution, the conditions of such statute shall govern.

8.05 Effective Date This resolution shall take effect from and after the effective date of its passage and publication as required by law, the public welfare requiring it.

APPROVED:


County Executive

ATTEST:


County Clerk

RESOLUTION # _____


**RESOLUTION TO AMEND THE REGULATION SPECIAL IMPACT
LAND USES IN LINCOLN COUNTY, TENNESSEE**


BE IT ENACTED BY THE LINCOLN COUNTY COMMISSION:

Section 1. The Resolution # _____ regulating Special Impact Land Uses in Lincoln County, Tennessee is amended by adding to Section 4.D.(A) the following uses which are permitted in the SI, Special Impact District:

- (14) interstate or multi-county pipelines
- (15) storage tank farms
- (16) pumping stations

APPROVED:


County Executive


County Clerk

RESOLUTION TO
REGULATE SPECIAL
IMPACT LAND USES
IN
LINCOLN COUNTY

EFFECTIVE OCT. 15, 2002

PER MINUTES OF LINCOLN CO. COMMISSIONERS