

**THE AMENDED AND RESTATED  
ZONING ORDINANCE OF  
THE CITY OF FOREST HILLS, TENNESSEE**

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## ARTICLE I. GENERAL PROVISIONS

1.01. **Title.** This chapter shall be known and may be cited as “The Zoning Ordinance of Forest Hills, Tennessee” and may be referred to as “the Zoning Ordinance” or “this Ordinance.”

1.02. **Purpose.** In addition to the purpose of zoning regulations established in Section 13-7-103 of the Tennessee Code Annotated, the purpose of this Ordinance is to implement the Comprehensive Plan adopted on January 21, 2010 and for the purpose of promoting the health, safety, morals and general welfare of the community.

These regulations are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to establish a rational pattern of land use; and to encourage the most appropriate use of land and to enhance the property values within the City. This Ordinance has been prepared with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

### 1.03. **Relationship With Other Laws.**

(a) **Conflicts with Other Codes or Laws.** If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other adopted codes or ordinances of the City, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

(b) **Conflicts with Private Agreements.** The City shall not be responsible for monitoring or enforcing private easements, covenants, or restrictions, although the City may inquire as to whether land is subject to easements, covenants or restrictions during the review of applications.

(c) **Conflicts with State or Federal Law.** If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.

### 1.04. **Zoning Map.**

(a) **Zoning Map Considered Part of Zoning Ordinance.** Zoning districts established by this Zoning Ordinance are bounded and defined as shown on the Zoning Map of the City (herein “Zoning Map”) adopted concurrently with this Zoning Ordinance, which Zoning Map and all pages and subparts thereof are hereby made a part of this Zoning Ordinance and incorporated herein.

(b) **Interpretation of Zoning District Boundaries.** For purposes of interpretation as may from time to time be necessary, the following rules shall be used to determine the precise location of any zoning district boundary shown on the Official Zoning Map:

(i) Boundaries shown as following the corporate limits of the City shall be construed as following such limits.

(ii) Boundaries shown as following, or approximately following, streets shall be construed as following the centerlines of such streets.

(iii) Boundary lines shown as following, or approximately following, platted Lot lines or other property lines, as shown on the City subdivision plat maps, shall be construed as following such lines.

(iv) Boundaries shown as following, or approximately following, the centerlines of streams and water courses shall be construed as following the channel centerline of such streams and water courses. In the event of a natural change in the location of such streams or water courses, the zoning district boundary shall be construed as moving with the channel centerline.

(v) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in Paragraphs (i) and (ii) above, shall be construed to be parallel to such features and at such distances therefrom as are shown on the Official Zoning Map.

**ARTICLE II. ZONING DISTRICTS AND THEIR PURPOSE**

2.01. **General Provisions.** The City is hereby divided into zoning districts of such number and character as are necessary to achieve compatibility of uses within each district and to implement the Comprehensive Plan and to achieve the other purposes of this Zoning Ordinance. For the purpose of this Zoning Ordinance, all areas of the City are divided into the following zoning districts:

<b>District</b>	<b>Minimum Lot Size</b>
Estates 1A (E1A)	Six (6) acres
Estates A (EA)	Three (3) acres
Estates B (EB)	Two (2) acres
Estates C (EC)	One and one half (1.5) acres
Residential A (RA)	One and one quarter (1.25) acres
Neighborhood Conservation (NC1) and (NC2)	One (1) acre
Open Space Subdivision	One (1) acre
Historic Commercial (HC)	One and one quarter (1.25) acres
Country Club (CC)	One Hundred Sixty (160) acres
Institutional (IN)	Places of Worship: Ten (10) acres K-6 Schools: Twenty (20) acres 7-12 Schools: Fifty (50) acres
Municipal Floodplain Protection Overlay	N/A
Hillside Protection Overlay	N/A

2.02. **Residential Zoning Districts.** As indicated in the Comprehensive Plan, the City is a residential community. The purpose of the residential zoning districts is to permit Residential Use therein and to provide the zoning standards and regulations to protect and promote the residential character of various areas of the City and to ensure that new development is performed in a manner that protects and enhances property values. The purpose and intent of each of the residential districts is stated below.

(a) **Estates 1A (E1A) District (6 acres).** The purpose of this district is to maintain and preserve the countryside park-like character in the area adjoining Percy Warner Park along Chickering and Page Roads as shown on the Comprehensive Plan.

(b) **Estates A (EA) District (3 acres).** The purpose of this district is to maintain and preserve the estate character in areas shown on the Comprehensive Plan along Hillsboro Pike. This district is established to provide greater setbacks and a more rural appearance along one of the City’s major streets.

(c) **Estates B (EB) District (2 acres).** The purpose of this district is to maintain and preserve the estate character in the core areas of the City, as shown on the Comprehensive Plan, for areas generally east and west of Hillsboro Pike that are located beyond the corridor of the street itself. This district is established to provide the desired estate character in terms of Lot size and setbacks.

(d) **Estates C (EC) District (1.5 acres).** The purpose of this district is to provide an estate character along Granny White Pike as shown on the Comprehensive Plan. In light of the existing smaller Lot development located to the West of Granny White Pike, this district is created to provide the estate character along the eastern border of the City.

(e) **Residential A (RA) District (1.25 acres).** This district is primarily intended to recognize the character of older developed and platted areas of the City; some of which predate the creation of the City. The areas zoned in this district preserve a generally suburban community character and cover those areas so designated in the Comprehensive Plan. No rezoning of this district is ever envisioned. This district respects those portions of the City where smaller Lots were an established form of development prior to incorporation.

(f) **Neighborhood Conservation (NC1 and NC2) Districts (1 acre).** These districts are intended to preserve existing neighborhoods that were developed as one acre Lots under zoning district classifications no longer legal in the City, or which were developed before the City was incorporated as a City. NC1 and NC2 Districts shall never at any time in the future be used to develop new areas or Lots within the City. The NC1 and NC2 Districts make Lots under these districts conforming and, thereby, eliminate the problems landowners typically would face when improving existing homes on Nonconforming Lots within these classifications. Lots with minimum Lot widths of one hundred (100) feet are classified as NC1 and larger Lots as NC2.

2.03. **Non-Residential Zoning Districts.** The City of Forest Hills is a residential community with limited non-residential uses, including religious, educational, country club, and historic commercial uses. The purpose and intent of the non-residential districts is to provide zoning standards and regulations to govern and control these zoning districts and to protect the adjacent and adjoining residential districts. The purpose, intent, and specific regulations pertaining to each non-residential district is stated below.

(a) **Historic Commercial (HC) District.**

(i) **Generally.** This district is the only commercial zoning district in the City. It is created for the sole purpose of preserving the rights of historically commercial properties in the City. All Historic Commercial District properties were commercially used before the City was formed, for the sale of grocery products and gasoline sales and have remained commercial for those uses. There shall be no expansion of the boundaries of this district or new designations of any land for Historic Commercial District classification.

(ii) **Specific Requirements.** In addition to all other requirements of this Zoning Ordinance and of the Municipal Code, all Historic Commercial uses shall comply with the requirements of this Section:

(1) The Lot upon which the Historic Commercial use is located has been used for convenience store purposes, as in the nature of a country store, for at least sixty (60) years prior to the Controlling Date.

(2) The total area of the Lot devoted to the use shall not exceed two (2) acres.

(3) The maximum Floor Area of the principal building located on the Lot shall not exceed five (5) percent of the total Lot area, with at least seventy (70) percent of the Lot in landscaping.

(4) The Lot must have a minimum frontage along any arterial street of 300 feet as identified in the City's Major Street Plan.

(5) No Accessory Building or other Structure may be located on the Lot, provided, however, the Lot may have covered gas pumps not to exceed two pump structures (six nozzles per pump).

(6) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(b) **Country Club (CC) District.**

(i) Generally. This district is created to allow for development of a country club, which may have such amenities as a main club house and accessory buildings or uses as are customarily incident to country clubs, generally, including without limitation an 18-hole golf course, pro-shops, Swimming Pool, tennis courts, food preparation, dining and similar facilities, which may serve food and alcoholic beverages as are otherwise permitted by law on the premises. The country club shall be owned by a not-for-profit corporation for the sole use and benefit of its members and their guests and shall not be for the use of the general public other than as spectators at occasional tournaments.

(ii) Specific Requirements. In addition to all other requirements of this Zoning Ordinance and of the Municipal Code, all country clubs shall meet all of the requirements of this Section:

(1) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(2) The country club entrance shall be located on and take access from an arterial street as identified in the City's Major Street Plan.

(3) The country club shall provide one parking space for every three members and shall comply with all parking requirements set forth in Section 4.06.

(4) All activities requiring licenses or approvals of any public agency shall only be permitted for that time period for which a valid license or approval is obtained and maintained in force and effect. Where grades or classes of approval are granted, only the most restrictive may be permitted.

(c) **Institutional (IN) District.**

(i) Generally. This district is reserved for educational and religious uses only. No Institutional District may be created which contains less than the acreage required by Table 4.03 of this Zoning Ordinance.

(ii) Specific Requirements. All educational and religious uses shall meet all of the requirements of this Section.

(1) No building, Structure, or Lot shall be used, arranged, or designed to be used for any use other than:

(a) Places of Worship, or

(b) Public or Private Schools

(2) A Lot approved for a Place of Worship may also contain one (1) one family Dwelling constructed for use incidental to the operation of the Place of Worship.

(3) No Institutional use may be approved on any Lot having less than 200 feet of frontage upon a scenic arterial, arterial or residential collector street as identified in the City's Major Street Plan of record in Instrument number 20131216-0126854, Register's Office of Davidson County, Tennessee, as amended.

(4) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(5) All buildings and Structures constructed in an Institutional use district shall be harmonious with and complementary to the adjacent neighborhood, shall use natural, unobtrusive tones and surfaces, and shall have plans and specifications drawn by an architect licensed to conduct business in Tennessee. The architect shall certify in writing on the plans that all buildings and Structures comply with the requirements of the International Building Code, as amended, and all applicable federal, state, and local laws and regulations.

(d) **Creation of New Non-Residential Districts.** Any application for a new non-residential zoning district shall comply with the following procedures:

(i) No new non-residential zoning district shall be created unless a request to rezone is recommended by the Planning Commission and approved by a majority vote of the Board of Commissioners.

(ii) In the event that the Planning Commission does not recommend the creation of a non-residential zoning district, then the Board of Commissioners may approve the application, provided that such application is approved by a unanimous vote of the Board of Commissioners.

(iii) The Planning Commission, in making its recommendation, and the Board of Commissioners, in making its decision, shall consider whether the proposed district is consistent with the Comprehensive Plan, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the non-residential use district would be located.

(e) **Expansion, Alteration, or Replacements in Non-Residential Districts.** Prior to materially expanding, altering, or replacing any non-residential use of property (each an “**Expansion**”), the following requirements shall be met:

(i) The owner of the Lot must submit for approval of the Planning Commission and the Board of Commissioners a Concept Plan.

(ii) There shall be screening as appropriate in the Rear Yard and Side Yard areas pursuant to a Landscaping Plan approved by the Planning Commission and Board of Commissioners. Such screening may consist of existing vegetation and landscape features or a combination of new plant materials, berms, and fencing. All Front Yards shall be appropriately landscaped. All landscaping and screening requirements shall be incorporated into an integrated Landscaping Plan for the property.

(iii) In considering the Concept Plan and in making its recommendation to the Board of Commissioners, the Planning Commission shall consider the following criteria:

(1) Whether the proposed Expansion is consistent with the goals of the Comprehensive Plan;

(2) Whether the proposed Expansion complies with all other requirements of this Zoning Ordinance, the Municipal Code, and all applicable state and federal laws;

(3) Whether the proposed Expansion is consistent with, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the non-residential use district would be located;

(4) Whether the proposed Expansion is consistent with the suburban estates character of the City;

(5) Whether the proposed Expansion will have a material detrimental effect upon the adjoining neighborhood with respect to (i) the flow of traffic, (ii) noise, and (iii) lighting;

(6) Whether the proposed Expansion provides landscaping and buffering sufficient to reasonably screen the non-residential use from adjacent residential areas; and

(7) Whether the proposed Expansion is architecturally compatible with the existing principal building; or if said principal building is destroyed by fire, act of God, or is voluntarily removed, whether the replacement is consistent with the architectural style of the surrounding area previously in existence on the Lot.

(iv) If the Planning Commission recommends the Concept Plan for approval by the Board of Commissioners, then a simple majority vote of the Board of Commissioners shall be required to approve the proposed Expansion. If, however, the Planning Commission does not recommend the Concept Plan for approval, then the Board of Commissioners may approve the Expansion, provided that the application therefor is approved by a 2/3 majority vote of the Board of Commissioners.

(f) **Notice of Requests to Re-Zone and to Alter, Expand, or Replace Non-Residential Uses.** When application is made for a new non-residential zoning district, or when a Concept Plan is submitted for a proposed Expansion, the City Manager shall give notice thereof to all residents of the City. Notice of the time and place of the Planning Commission's first scheduled meeting to review the re-zoning application or proposed Expansion shall be published once in a newspaper of general circulation in the City and delivered to all residents of the City via United States mail. Notice pursuant to this Section shall only be required for the first public hearing; provided, however, that the City Manager may provide further notices. The failure to notify residents by United States mail due to an error in records or any other circumstance shall not invalidate any recommendation of the Planning Commission or action of the Board of Commissioners. The applicant for the request to re-zone, alter, expand, or replace a non-residential use shall bear the full cost and expense incurred by the City pursuant to the notice requirements of this section.

2.04. **Open Space Subdivision Zoning District (OS).** The Open Space Subdivision District is intended to be a voluntary option for new subdivisions of land within the city. The City shall not mandate the rezoning of land into the Open Space Subdivision District; rather, an applicant may elect to pursue rezoning of land into this district. The Open Space Subdivision District is intended to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within an Open Space Subdivision. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this Zoning Ordinance and the Comprehensive Plan and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open space.

(a) **Conditions.**

(i) Area. The minimum development site for any Open Space Subdivision shall be at least 10 acres. The minimum Lot size within each Open Space Subdivision shall be 1 acre.

(ii) Use. The Open Space Subdivision shall be used exclusively for residential uses.

(iii) Ownership. The land comprising the Open Space Subdivision shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

(iv) Design. Structures and open spaces within the site shall be arranged to ensure that adjacent properties will not be materially adversely affected. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

(v) Specific Regulations.

(1) The minimum lot width, front yard setback, rear yard setback, and side yard setback shall be determined by approval of the site Concept Plan.

(2) The minimum lot area shall be one (1) acre.

(3) The maximum height shall be thirty-five (35) feet.

(4) The maximum building cover shall be twelve percent (12%).

(5) The maximum impervious surface ratio shall be fifty percent (50%).

(vi) Open spaces. Each open space subdivision shall provide a minimum of thirty percent (30%) of its total acreage to be designated as Open Space and preserved in perpetuity in a natural state. The Open Space shall be designated as such on the final recorded plat. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

(1) Creating a permanent conservation easement on and over the said private open spaces to guarantee that the open space remain perpetually undeveloped, with oversight and administration by a land trust or similar non-profit entity pursuant to an agreement which is acceptable to the Board of Commissioners, or

(2) Vesting title to said private open space in a homeowner's association, established with articles of association and bylaws, which are satisfactory to the Board of Commissioners.

(vii) Landscaping. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed Open Space Subdivision into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development. A general Landscaping Plan will show proposed trees, shrubbery, and other landscaping for the Open Space area and common elements of the subdivision. A grading and drainage plan shall also be submitted to the Planning Commission with the application.

(viii) Signs. The size, location, design and nature of signs, if any, and the number and direction thereof shall be detailed in the application.

(ix) Desirability. The proposed location shall be shown as necessary or desirable, and to contribute to the general well-being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed subdivision will not be materially detrimental to the health, safety or general welfare of persons residing in the vicinity of the Open Space Subdivision.

(b) **Creation of an Open Space Subdivision District.**

(i) Rezoning Required. No new Open Space Subdivision shall be created unless a request to rezone the property to Open Space Subdivision is recommended by the Planning Commission and approved by the majority vote of the Board of Commissioners. In the event that the Planning Commission does not recommend the creation of an Open Space Subdivision, then the Board of Commissioners may approve the application, provided that such application is approved by a 2/3 majority vote of the Board of Commissioners.

(ii) Concept Plan Required. An applicant for an Open Space Subdivision shall submit to the Planning Commission a Concept Plan in accordance with the form and procedures outlined in the Subdivision Regulations.

(iii) Hearings by Planning Commission and Board of Commissioners. The Planning Commission shall consider the Open Space Subdivision concept plan, preliminary plat, and final plat in accordance with the procedures outlined in the Subdivision Regulations. Once the Planning Commission has voted to approve, approve with conditions, or disapprove the proposed Open Space Subdivision, the Secretary of the Planning Commission will forward the application to the Board of Commissioners for its consideration. Because an application for rezoning represents a legislative change, the Board of Commissioners will consider the application as an ordinance, requiring two affirmative public votes.

(c) **Planning Commission Determination**. In carrying out the intent of this Section, the Planning Commission shall consider the following principles:

(i) It is the intent of this Section that site and building plans for an Open Space Subdivision shall be prepared by a designer or team of designers having professional competence in suburban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.

(ii) It is not the intent of this section that control of the design of an Open Space Subdivision by the Planning Commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this Section that the control exercised be the minimum necessary to achieve the purpose of this Section.

(iii) In an approval, the Planning Commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this Ordinance.

(iv) The Planning Commission, in making its recommendation, shall consider whether the proposed Open Space Subdivision is consistent with, in the best interests of, and promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and the specific area in which the Open Space Subdivision would be located.

(d) **Modification of Standards.** The Board of Zoning Appeals shall not have the power to grant a variance from the requirements of this Section 2.04, specifically including, but not limited to, the requirements of Section 2.04(a). The Board of Commissioners shall have the power and authority to grant relief from the strict application of this Section 2.04, or to grant a modification of the standards herein, where, by reason of exceptional narrowness, shallowness, shape, exceptional topographic conditions or other extraordinary and exceptional situation or condition of a specific piece of property, the strict application of this Section 2.04 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the applicant for rezoning of the property, provided further that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of this Section and this Ordinance.

(e) **Required Contributions.** The Planning Commission or Board of Commissioners, as part of the approval of an Open Space Subdivision, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

(i) Dedication of land for public road right-of-way purposes.

(ii) Construction of, or addition to, roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.

(iii) Installation of required traffic safety devices.

(iv) Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

#### 2.05. **Floodplain Protection Overlay District (FP).**

There is hereby established the municipal floodplain protection district (“**FP District**”), the boundaries of which shall correspond to the areas of special flood hazard identified on the City of Forest Hills, Tennessee, Federal Emergency Management Agency, Flood Insurance Study and Flood Insurance Rate Map, as defined in Title 14, Chapter 303(2) of the Municipal Code. The provisions of Title 14, Chapter 3, including all technical and development standards and requirements therein, are made a part hereof and incorporated herein. As an “overlay” district, any development or land disturbance within this area shall

comply with the technical and development standards in Title 14, Chapter 3 in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary and overlay district, the more stringent standards and requirements shall apply.

2.06. **Hillside Protection Overlay District (HP).**

(a) **Established.** The Hillside Protection overlay district (“**HP District**”) is hereby established to more adequately meet the challenges of development in the higher elevation areas of the City. The district shall include (i) all areas within the corporate limits of the City with an elevation of 800 feet or greater, and (ii) all areas within the corporate limits of the City with Steep Slopes. Where only a portion of a Lot has an elevation in excess of 800 feet or contains Steep Slopes, only that portion of the Lot encumbered by Steep Slopes or existing over 800 feet shall be included within the HP District. The district shall generally be depicted on the maps of the HP District maintained in the City offices; provided, however, that the provisions set forth in this Section shall apply to all areas with elevations and grades identified in this Section, and only to such areas, regardless of whether such areas are correctly depicted on maps. As an “overlay” district, any development or land disturbance within this area shall comply with the technical and development standards in this Section in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary and overlay district, the more stringent standards and requirements shall apply.

(b) **Intent.** It is the intent of the HP district to encourage prudent land disturbance and development activities that maintain the natural, topographic character of the land. The technical and development standards within the primary zoning district alone are inadequate to preserve and protect the natural environment and scenic beauty of the City’s steep hillside areas. The additional standards set forth in this Section serve to protect the health, safety, quality of life and general welfare of the community. These standards are directed at minimizing the impact of building construction and land disturbance activities in steep hillside areas including, but not limited to, unsafe geologic disturbance, soil erosion and surface water runoff from excessive removal of trees and other vegetative cover, and severe cutting, physical scarring and visual modification of the natural terrain.

(c) **Applicability.**

(i) **Generally.** For all property located within the HP district, the standards of this Section shall apply to (a) the approval of any new subdivision of land, (b) the construction or erection of any new residential Dwelling or any other new Structure that requires a building permit, and (c) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance, unless exempted by the terms therein.

(ii) **Exemptions.** The following disturbances or actions shall be permitted within the HP District without the necessity of compliance with this Section:

(1) **Expansion of Existing Structures.** Building permits or grading permits issued for the expansion of an existing Structure, provided that such expansion is less than a twenty-five percent (25%) expansion in total Impervious Surface area or 1,500 square feet of finishable Floor space, whichever is less;

(2) Accessory Structures. Building permits issued for the construction of new Structures to be used as an accessory to a principal Dwelling, with the exception of Swimming Pools, where said Structure contains less than six hundred fifty (650) square feet;

(3) Fences. Permits issued for construction of Fences or maintenance to any existing Fence;

(4) Interior Construction. Building permits issued for interior construction or remodeling of a Dwelling, or building permits issued related to the enclosure of previously unenclosed spaces, such as porches and patios, where no new impervious surface will be added;

(5) Miscellaneous. Such other reasonable land disturbances that result in an improvement in slope stability.

(iii) Nonconforming lots and structures. Within the HP District, any Lot established on an unexpired, approved preliminary plat or executed final plat and/or any existing Structure that was lawfully constructed prior to the Controlling Date may be developed, improved or continued in use; provided, however, when such property is developed or when an existing structure is enlarged by more than a twenty-five percent (25%) expansion in total Impervious Surface area or 1,500 square feet of finishable Floor space, whichever is less, the Lot shall be brought into conformance with the standards of this Section to the greatest extent feasible. Exceptions to the standards may be approved by the Board of Zoning Appeals if it determines that the proposed plan will more adequately achieve the intent of this Section and/or full compliance will pose an undue burden on the property owner.

(d) **New Subdivisions within the HP District**. The following standards shall apply to new subdivisions of land within the HP District:

(i) Minimum Lot Area. Any new Lot created within the HP District shall be comprised of not less than three (3) acres.

(ii) Maximum Allowable Area of Disturbance. Not more than ten percent (10%) of the total acreage of that portion of the Lot encumbered by Steep Slopes or Slippage Soils may be disturbed.

(iii) Location of Buildings. No Dwelling or other Structure shall be permitted in areas with Steep Slopes. In the event that multiple Lots are consolidated into a single Lot, the Planning Commission will have the discretion to approve a building envelope within any area classified as a Steep Slope provided that the building envelope is located on the best available portion of the consolidated Lot. The Planning Commission shall determine the “best available portion of the consolidated Lot” by taking into consideration (1) the safety of existing and potential future Structures, (2) the impact on adjacent Lots, (3) compliance with all other portions of the Zoning Ordinance, and (4) the approved building envelope preserves all natural resources to the greatest extent possible.

(iv) Streets and Driveways. Streets and driveways shall be designed and constructed in accordance with the requirements of the Subdivision Regulations and Section 4.07, as applicable.

(e) **Technical Standards for Construction**. Where the provisions of this Section are applicable pursuant to Section 2.06(c), the construction standards contained in Section 6.03 shall apply.

### ARTICLE III. USE REGULATIONS

3.01. **General Provisions; Prohibited Uses.** No lot or other property may be used, nor any building, Dwelling or Structure used, developed, designed or constructed, for any use other than as specifically permitted within each zoning district pursuant to Table 3.02 and 3.03(b). For the avoidance of doubt, the following uses of land or property are specifically prohibited: (a) mobile home dwelling, multifamily dwelling, bed and breakfast homestay, and short term rental property; (b) all office, commercial, or other business use except as defined under Home Occupation or as otherwise specifically permitted in a zoning district; (c) park and ride, bus station or transfer station, motor freight, commuter rail, and takeoff or landing of aerial vehicles, except for law enforcement, fire, and emergency medical services; and (d) salvage, junk, and scrap yards, including inoperable vehicles and material stock piles.

3.02. **Permitted Uses.** Only those uses specifically permitted in a zoning district shown in Table 3.02 shall be permitted; all other uses, including business establishments, enterprises and activities, and those uses not mentioned in Table 3.02, shall be prohibited.

**Table 3.02  
Table of Permitted Uses**

<b>USE</b>	<b>E1A</b>	<b>EA</b>	<b>EB</b>	<b>EC</b>	<b>RA</b>	<b>NC1/NC2</b>	<b>OS</b>	<b>HC</b>	<b>CC</b>	<b>IN</b>
<b>One-Family Dwelling</b>	P	P	P	P	P	P	P	N	N	C <sup>1</sup>
<b>Place of Worship</b>	N	N	N	N	N	N	N	N	N	P
<b>School</b>	N	N	N	N	N	N	N	N	N	C <sup>2</sup>
<b>Country Club</b>	N	N	N	N	N	N	N	N	P	N
<b>Commercial</b>	N	N	N	N	N	N	N	P	N	N
<b>Livestock</b>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	N	N	N	N	N	N
<b>Accessory Buildings and Uses</b>	C <sup>4</sup>	N	C <sup>4</sup>	C <sup>4</sup>						
<b>Signs</b>	C <sup>5</sup>									
<b>Home Occupations</b>	P	P	P	P	P	P	P	N	N	N
<b>Guest Houses / Caretaker Cottages</b>	C <sup>6</sup>	N	N	N	N	N				
<b>Towers and Antennas</b>	C <sup>7</sup>									
<b>Temporary Buildings and Uses</b>	C <sup>8</sup>									
<b>Accessory Apartments</b>	C <sup>9</sup>	N	N	N	N					

<sup>1</sup> See Section 2.03(c) for conditions.

<sup>2</sup> See Section 2.03(c) for conditions.

<sup>3</sup> No livestock (other than horses or ponies) shall be permitted on Lots of less than 15 acres. On lots of 15 acres or greater, livestock are permitted provided the Animal Unit per acre requirements, as defined in Section 11.03, are never exceeded. For all Lots under 15 acres, one (1) horse or pony shall be permitted for every 2.5 acres. Domesticated hens are permitted all residential districts in accordance with Title 10, Chapter 1 of the Municipal Code.

<sup>4</sup> See Section 3.04 and Article IV for conditions.

<sup>5</sup> See Section 4.10 for conditions.

<sup>6</sup> See Section 3.04 for conditions.

<sup>7</sup> See Section 3.05 for conditions.

<sup>8</sup> See Section 3.03 for conditions.

<sup>9</sup> See Section 3.04 for conditions.

- P = The use is permitted.
- N = The use is not permitted.
- C = The use is conditionally permitted.

3.03. **Temporary Uses.**

(a) **Purpose.** This Section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this Section and are discontinued upon the expiration of the established time period. Temporary uses and special events shall not involve the construction or alteration or any permanent building or Structure.

(b) **Table of Permitted Temporary Uses and Structures.** Table 3.03(b) summarizes permissible temporary uses of land and Structures and the standards that apply. Temporary uses or Structures not listed in Table 3.03(b) are prohibited.

**Table 3.03(b)**  
**Permitted Temporary Uses and Structures**

<b>Temporary Use or Structure</b>	<b>Allowable Duration (per site)</b>	<b>Permit Required</b>	<b>Additional Requirements</b>
<b>Seasonal Agricultural Sales</b>	25 non-consecutive days per calendar year	Yes	Subsection 3.03(d)(i) below
<b>Special Events</b>	30 consecutive days per calendar year	Yes	Subsection 3.03(d)(ii) below
<b>Construction Trailer and Construction Dumpster</b>	Until issuance of a Certificate of Occupancy	No	Subsection 3.03(d)(iii) below
<b>Temporary Storage or Portable Container</b>	30 days	Yes	See Section 13-301, et seq. of the Municipal Code

(c) **General Standards for Temporary Uses and Structures.** Every temporary use, Structure, and event shall:

- (i) Comply with all ordinances and regulations of the City, including, but not limited to, the sale of alcohol, property maintenance, trash disposal, signage, parking, and noise;
- (ii) Obtain the appropriate permit from the City Manager prior to commencement of the temporary use or erection of the temporary Structure;
- (iii) Be compatible with the principal use of the Lot;
- (iv) Contain sufficient land area to allow the temporary use, Structure, or special event to occur, as well as adequate land area to accommodate the parking and traffic movements associated with the temporary use, without disturbing environmentally sensitive lands or nearby residential neighborhoods.

(v) Not be materially detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(vi) Not have an adverse effect or noise impact on nearby residential neighborhoods;

(vii) Not include permanent alterations to the Lot;

(viii) Not maintain temporary signs associated with the use or Structure after the activity ceases;

(ix) Not violate the applicable conditions of approval that apply to a Lot or use on the Lot; or

(x) Not interfere with the normal operation of any permanent use of the Lot.

(xi) Not include an amusement ride, fair, flea markets, or similar commercial activity.

(d) **Specific Regulations for Certain Temporary Uses and Structures.**

(i) Seasonal Agricultural Sales. Seasonal agricultural sales, including the sale of such items as pumpkins, seasonal produce, and similar agricultural products may be permitted in accordance with the following standards:

(1) *Application.* Any person desiring to conduct a seasonal agricultural sale shall make an application in writing, which application shall contain the following information:

(a) Location and proposed dates for the seasonal agricultural sale;

(b) Name and contact information for persons responsible for the proper conduct of the seasonal agricultural sale;

(c) The applicant shall provide the City with a certificate of general liability insurance with minimum coverage of five hundred thousand dollars (\$500,000) or such other amount as reasonably determined by the City Manager. The policy shall name the City of Forest Hills as an additional insured; and

(d) Traffic management and parking plan.

(e) A list of vendors permitted to participate in the seasonal agricultural sale together with a list of items permitted to be sold by said vendors.

(f) A copy of all permits, licenses, and certificates required for the sale of products regulated by the Board of Health and the Tennessee Department of Agriculture, or both, as applicable.

(g) An agreement, in form and substance approved by the city, indemnifying the city against claims, damages, and liabilities arising or resulting from the seasonal agricultural sale.

(2) *Notice.* Prior to approving the application, the City shall send notice directly to all Lot owners whose property adjoins the subject Lot and to all Lot owners within three hundred (300) feet of the nearest Lot line of the subject property and any other Lot owners who might be deemed directly affected by the application.

(3) *Location.*

(a) All Seasonal Agricultural Sales shall be held on Lots in non-residential zoning districts only.

(b) The Lot shall contain an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(c) The sale of agricultural products shall not occur within the public Right-of-Way or within 200 feet of any Dwelling.

(4) *Permitted Goods.* Vendors may sell the following goods subject to the following specific requirements:

(a) *Farm Products.* Farm products, including vegetables, fruits, honey, herbs, eggs, cheese, dairy products and meats; provided, however, that any vendor who desires to sell eggs, meats, dairy products, or any other regulated farm product must first deliver to the city a valid regulatory services permit from the Tennessee Department of Agriculture and display the permit at while participating in a sale.

(b) *Processed Foods.* Processed, prepared, and packaged foods, including baked goods, jams, jellies, sauces, preserves, pet foods, canned food, and any food that has been processed beyond its natural state; provided, however, that any vendor who desires to sell processed foods must first deliver to the city a valid regulatory services permit from the Tennessee Department of Agriculture and display the permit at while participating in a sale. Notwithstanding the foregoing, vendors may sell “nonpotentially hazardous foods” (as defined in T.C.A. 53-8-117(a)(2)) provided that such vendors comply with all signage and labeling requirements pursuant to T.C.A. 53-8-117.

(c) **Prepared Foods.** Foods prepared for on-site consumption; provided, however that any applicant who desires to sell foods prepared for on-site consumption must first deliver to the city a valid food service establishment permit together with the latest food service establishment inspection report for the vendor and display the permit and inspection report while participating in a sale

(5) *Sales from a Vehicle.* The sale of products from a vehicle shall not be considered to be seasonal agricultural sales and is strictly prohibited.

(6) *Hours of Operation.* The hours of operation of the seasonal sale of agricultural products shall be no earlier than 7:00 A.M. to not later than 12:00 noon. The Lot or site shall be restored to its original condition within two (2) hours of the termination of the daily activities.

(7) *Disposal of Un-saleable Goods and Products.* All unsold goods and products shall be removed from the Lot within two (2) hours of the termination of the daily activities.

(ii) **Special Events.** Special events, including, but not limited to, show houses, fundraisers, concerts, and the like, may be permitted in accordance with the following standards:

(1) *Application.* Any person desiring to conduct a special event shall make an application in writing, which application shall contain the following information:

(a) Location and proposed dates for the special event;

(b) Name and contact information for persons responsible for the proper conduct of the special event;

(c) The applicant shall provide the City with a certificate of general liability insurance with a minimum coverage of five hundred thousand dollars (\$500,000) or such other amount as reasonably determined by the City Manager. The policy shall name the City of Forest Hills as an additional insured; and

(d) A traffic management and parking plan.

(2) *Notice.* Prior to approving the application, the City shall send notice directly to all Lot owners whose property adjoins the subject Lot and to all Lot owners within three hundred (300) feet of the nearest Lot line of the subject property and any other Lot owners who might be deemed directly affected by the application.

(3) *Location.* The Lot shall contain an area not actively used that will support the proposed special event without creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability. The

special event shall not occur within the public Right-of-Way or within 200 feet of any Dwelling.

(4) *Hours of Operation.* No special event shall commence prior to 7:00 A.M. or conclude later than 10:00 P.M.

(iii) Construction Dumpsters and Construction Trailers. The placement of a temporary construction dumpster or other trash receptacle or construction trailers shall comply with the following standards:

- (1) Be located to the side or the rear of the site, to the maximum extent practicable;
- (2) Be located as far as possible from lots containing existing development;
- (3) Be located outside of tree protection fencing and the dripline of existing trees;
- (4) Not be located within a floodplain, floodway, or otherwise obstruct drainage flow; and
- (5) Not be placed within five (5) feet of a fire hydrant.

3.04. Certain Accessory Uses.

(a) **Swimming Pools And Pool Houses.**

(i) Generally. All Swimming Pools shall comply with all requirements of the Municipal Code, as amended, and all applicable state laws, including, but not limited to T.C.A. § 68-14-801, et seq.

(ii) Fence Required. All Swimming Pools, together with all mechanical equipment necessary to the operation of the same, shall be enclosed, either by the structural wall or walls of the Dwelling to which it is an accessory, or by a Fence or wall that (i) complies with the requirements of Section 4.08 of this Zoning Ordinance, and (ii) is of the type required by the latest edition of the International Residential Code, as adopted by the City of Forest Hills.

(iii) Gate Required. Every door, gate or other entrance to said Swimming Pool enclosure shall be self-closing and self-latching and shall be capable of being secured with lock and key. All Swimming Pool lighting shall be located within the Swimming Pool itself or no more than twenty-four (24) inches above ground level around the Swimming Pool.

(iv) Pool Houses with Living Quarters. Any pool house that can be used as a Dwelling shall be deemed a Guest House / Caretaker Cottage and subject to the requirements of Section 3.04(b).

(b) **Guest Houses And Caretaker Cottages.**

(i) A Guest House/Caretaker Cottage shall comply with all Rear Yard and Side Yard setbacks, maximum height and maximum building cover requirements set forth in Table 4.02 and Table 4.05(a).

(ii) There shall be no further Subdivision of any Lot upon which a Guest House/Caretaker Cottage is located.

(c) **Accessory Apartments.** An Accessory Apartment shall be permitted and considered to be an Accessory Use to a Dwelling subject to the following conditions:

(i) The principal Dwelling is owner-occupied and meets all applicable regulations;

(ii) The Accessory Apartment shall not be rented;

(iii) Only one (1) Accessory Apartment shall be permitted;

(iv) There is free and clear access between the principal Dwelling and the Accessory Apartment without going outdoors;

(v) Only one (1) meter per utility may be installed to service both the Accessory Apartment and the principal Dwelling;

(vi) A maximum of twenty-five percent (25%) of the total Floor Area may be used for the Accessory Apartment;

(vii) No entrance to the Accessory Apartment shall be visible from the street;

(viii) The Accessory Apartment must be occupied by a family member defined herein as a grandmother, grandfather, grandson, granddaughter, mother, father, sister, brother, son, daughter, mother in-law, father in-law, sister in-law, brother in-law, son in-law, daughter in-law, aunt or uncle; and

(ix) An instrument shall be recorded with the register's office covenanting that the Accessory Apartment is being established pursuant to this Section and may only be used under the conditions listed above.

(d) **Stables And Barns.** A Stable is required if any horses or ponies are kept on property consisting of less than 15 acres.

(e) **Domesticated hens.**

(i) Type and number. A parcel of land shall contain the maximum number of domesticated hens identified below. Only hens are allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

Maximum Number of Domesticated Hens	Acreage
2	<1
4	1-3
6	>3

(ii) **Location.** All domesticated hens shall be kept in the rear yard of a lot subject to the applicable setback standards. No domesticated hens shall be kept in the front yard. Neither the hens nor the covered henhouse shall be visible from any public right-of-way. Rather, the hens and henhouse shall be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping.

(iii) **Setbacks.** An enclosure shall be located twenty-five (25) feet away from any residential structure (other than the permit holder’s residence) located in a residential zone district and ten (10) feet from any property line.

(iv) **Permit required.** A valid permit issued by the City Manager pursuant to Title 10 of the Municipal Code shall be obtained and maintained annually.

3.05. **Towers And Antennas.**

(a) **Applicability.** All new Towers or Antennas and expansions, modifications, and alterations of Pre-existing Towers and Pre-existing Antennas in the City shall be subject to these regulations. Preexisting Towers and Preexisting Antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 3.05(b)(v) and 3.05(b)(vi).

(b) **General Requirements.**

(i) **Principal or Accessory Use.** Antennas and Towers may be considered either principal or accessory uses. A different existing use of an existing Structure on the same Lot shall not preclude the installation of an Antenna or Tower on such Lot.

(ii) **Inventory of Existing Sites.** Each applicant for a new Antenna and/or Tower shall provide to the City Manager an inventory of its existing Towers, Antennas, or sites approved for Towers or Antennas, that are within the jurisdiction of Forest Hills and within one (1) mile of the border thereof, including specific information about the location, height, and design of each Tower. The City Manager may share such information with other applicants applying for permits under this Section or other organizations seeking to locate Antennas within the City; provided, however that the City Manager is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(iii) **Aesthetics.** Towers and Antennas shall meet the following requirements:

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

(2) At a Tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an Antenna is installed on a Structure other than a Tower, the Antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible.

(iv) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(v) State and Federal Requirements. All Towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate Towers and Antennas. If such standards and regulations are changed, then the owners of the Towers and Antennas governed by this Section shall bring such Towers and Antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring Towers and Antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.

(vi) Building Codes; Safety Standards. To ensure the structural integrity of Towers, the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for Towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a Tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.

(vii) Not Essential Services. Towers and Antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(viii) Franchises. Owners and/or operators of Towers or Antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the City Manager.

(ix) Signs. No signs shall be allowed on an Antenna or Tower.

(x) Buildings and Support Equipment. Buildings and support equipment associated with Antennas or Towers shall comply with the requirements of Section 3.05(e).

(c) **Administratively Approved Uses.**

(i) Generally. The following provisions shall govern the issuance of administrative approvals for Towers and Antennas.

(1) The City Manager may administratively approve the uses listed in this Section.

(2) Each applicant for administrative approval shall apply to the City Manager providing (i) information in Sections 3.05(d)(ii)(1)(a) and 3.05(d)(ii)(3) of this Section, (ii) information demonstrating compliance with Section 3.05(b), and (iii) a nonrefundable fee as established by the Fee Resolution.

(3) The City Manager shall review the application for administrative approval and determine if the proposed use complies with Sections 3.05(b), and 3.05(d)(ii)(4).

(4) The City Manager shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the City Manager fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

(5) In connection with any such administrative approval, the City Manager may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 3.05(d)(ii)(4) by up to fifty percent (50%).

(6) In connection with any such administrative approval, the City Manager may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing Tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Section 3.05(d) prior to filing any appeal that may be available under the Zoning Ordinance.

(ii) List of Administratively Approved Uses. The following uses may be approved by the City Manager after conducting an administrative review:

(1) *City and Property*. Antennas or Towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such Antenna or Tower has been approved by the City.

(2) *Collocation of Antennas on Existing Towers.* An Antenna which is attached to an existing Tower may be approved by the City Manager and, to minimize adverse visual impacts associated with the proliferation and clustering of Towers, collocation of Antennas by more than one carrier on existing Towers shall take precedence over the construction of new Towers, provided such collocation is accomplished in a manner consistent with the following:

(a) A Tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing Tower, unless the City Manager allows reconstruction as a monopole.

(b) Height. An existing Tower may not be modified or rebuilt to a taller height, to accommodate the collocation of an additional antenna.

(c) Onsite location.

1) A Tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

2) After the Tower is rebuilt to accommodate collocation, only one Tower may remain on the site.

(3) *Alternative Structures.* Locating any alternative tower structure that in the judgment of the City Manager is in conformity with the goals set forth in Section (a) of this ordinance.

(4) *Microcell.* Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(d) **Special Use Permits.**

(i) Generally. The following provisions shall govern the issuance of special use permits for Towers or Antennas by the Planning Commission:

(1) If the Tower or Antenna is not permitted to be approved administratively pursuant to Section 3.05(c) of this Section, then a special use permit shall be required for the construction of a Tower or the placement of an Antenna in all zoning districts.

(2) In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed Tower on adjoining properties.

(3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(4) An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee as established by the Fee Resolution.

(ii) Applications for Special Use Permits for Towers and Antennas.

(1) *Information required.* Applicants for a special use permit for a Tower shall submit the following information:

(a) A scaled site plan clearly indicating the location, type and height of the proposed Tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed Tower and any other Structures, topography, parking, and other information deemed by the City Manager to be necessary to assess compliance with the Zoning Ordinance.

(b) Legal description of the parent tract and leased parcel (if applicable).

(c) The setback distance between the proposed Tower and the nearest residential Dwelling, platted residentially zoned properties, and unplatted residentially zoned properties.

(d) The separation distance from other Towers described in the inventory of existing sites submitted pursuant to Section 3.05(b)(ii) shall be shown on a site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(e) A Landscaping Plan.

(f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(g) A description of compliance with Sections 3.05(b)(i) - (x) (general requirements), Section 3.05(d)(ii)(4) (setbacks), and all applicable federal, state or local laws.

(h) A notarized statement by the applicant as to whether construction of the Tower will accommodate collocation of additional Antennas for future users.

(i) Identification of the entities providing the Backhaul Network for the Tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

(j) A description of the suitability of the use of existing Towers, other structures or alternative technology not requiring the use of Towers or structures to provide the services to be provided through the use of the proposed new Tower.

(k) A description of the feasible location(s) of future Towers or Antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed Tower is erected.

(2) *Factors Considered in Granting Special Use Permits for Towers.* The Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Section are better served thereby:

- (a) Height of the proposed Tower;
- (b) Proximity of the Tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the Tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of Towers or Structures, as discussed in 3.05(c)(ii)(3)-(4) of this Section.

(3) *Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.* No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing Tower, Structure or alternative technology that does not require the use of Towers or Structures can accommodate the applicant's proposed Antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable

existing Towers, other Structures or alternative technology. Evidence submitted to demonstrate that no existing Tower, Structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

(a) No existing Towers or Structures are located within the geographic area that meets applicant's engineering requirements.

(b) Existing Towers or Structures are not of sufficient height to meet applicant's engineering requirements.

(c) Existing Towers or Structures do not have sufficient structural strength to support applicant's proposed Antenna and related equipment.

(d) The applicant's proposed Antenna would cause electromagnetic interference with the Antenna on the existing Towers or Structures, or the Antenna on the existing Towers or Structures would cause interference with the applicant's proposed Antenna.

(e) The fees, costs, or contractual provisions required by the owner in order to share an existing Tower or Structure or to adapt an existing Tower or Structure for sharing are unreasonable. Costs exceeding new Tower development are presumed to be unreasonable.

(f) The applicant demonstrates that there are other limiting factors that render existing Towers and Structures unsuitable.

(g) The applicant demonstrates that an alternative technology that does not require the use of Towers or Structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) *Setbacks.* The following setback requirements shall apply to all Towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this Section would be better served thereby:

(a) Towers must be set back a distance equal to at least two hundred (200) feet or three hundred percent (300%) of the height of the Tower, whichever is greater, from any adjoining lot line.

(b) Guys and Accessory Buildings must satisfy the minimum zoning district setback requirements.

(5) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

(6) *Landscaping.* The following requirements shall govern the landscaping surrounding Towers for which a special use permit is required.

(a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least twenty-five (25) feet wide outside the perimeter of the compound.

(b) In locations where the visual impact of the Tower would be minimal, the landscaping requirement may be reduced or waived.

(c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as Towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(e) **Buildings or Other Equipment Storage.** The equipment cabinet or structure used in association with Antennas shall comply with the following:

(i) The cabinet or structure shall not contain more than 300 square feet of gross Floor Area or be more than 12 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located; provided, however, the requirements of this provision may be modified by the City Manager or by the Planning Commission to encourage collocation.

(ii) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(f) **Removal of Abandoned Antennas and Towers.** Any Antenna or Tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Antenna or Tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned Antenna or Tower within said ninety (90) day shall be grounds to remove the Tower or Antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the Tower.

## ARTICLE IV. BULK STANDARDS AND OTHER PERFORMANCE REQUIREMENTS

4.01. **General Provisions.** All buildings, Dwellings, Structures, developments and uses and all changes, renovations or expansions thereof shall meet the district and Lot standards and requirements of this Article.

4.02. **Residential Bulk Standards.** All residential uses shall meet requirements of Table 4.02.

(a) *Lot Area.* “Lot area” means the horizontal area included within the boundary lines of a Lot, typically stated in terms of acreage or square feet. The minimum Lot Area is as set forth in Table 4.02.

(b) *Lot Width.* “Lot Width” means the horizontal distance between side lot lines measured at the minimum required front yard setback line. The minimum Lot Width is as set forth in Table 4.02.

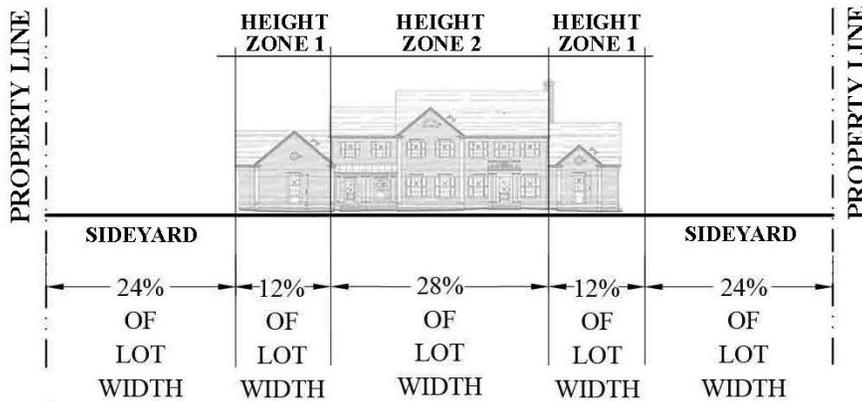
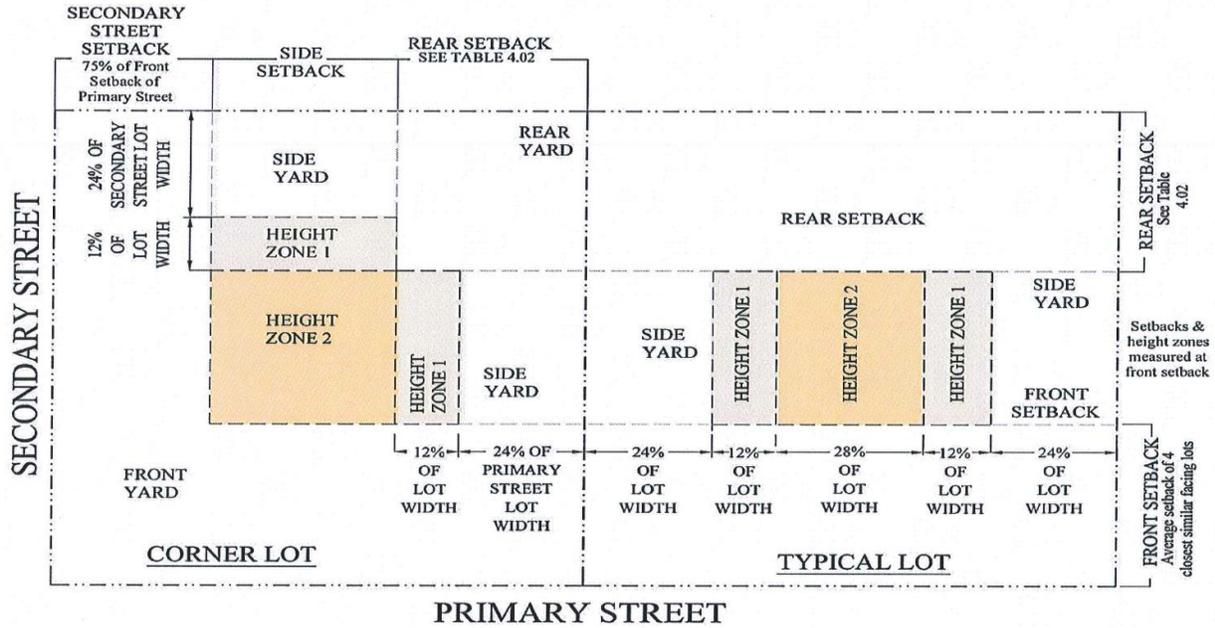
(c) *Minimum Street Frontage.* The minimum street frontage is as set forth in Table 4.02, except for cul-de-sac streets which shall have not less than forty (40) feet.

(d) *Minimum Front Yard Setback.* The front yard setback shall be determined by the average setbacks of four (4) Lots, which are most adjacent with like-facing homes thereon. If such average is not capable of being determined due to lack of development on adjacent Lots or is otherwise impractical due to site conditions affecting adjacent Lots, then the Minimum Front Yard Setback is as set forth in Table 4.02.

(e) *Minimum Rear Yard Setback.* The minimum rear setback is as set forth in Table 4.02.

(f) *Minimum Side Yard Setback.* Minimum side yard setbacks shall be 24% of the Lot Width at the front of the Building Envelope set forth in Table 4.02.

(g) *Maximum Building Height.* The maximum Building Height in Zone 1 and Zone 2 is as set forth in Table 4.02 and further illustrated below.



(h) *Roof Pitch.* The roof pitch of a Building or Structure is its slope as determined by its vertical rise divided by its horizontal span or “run.” Roof pitch is expressed with the rise first and run second. Buildings with a total height as set forth in Zone 1 in table 4.02 or less may have roof pitches no steeper than 16:12. Buildings with a height greater than set forth Zone 1 in table 4.02 feet may have roof pitches no greater than 12:12.

(i) *Maximum Building Cover and Building Cover Ratio.* The maximum Building Cover is as set forth in Table 4.02. Building Cover Ratio is a measure of the intensity of the land use, which is determined by dividing the total horizontal area of all surfaces under roof, including but not limited to covered porches, overhangs, and entryways on a Lot, by the Lot Area.

(j) *Impervious Surface.* Impervious Surface is any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, roofs of Buildings or Structures, parking and driveway areas, sidewalks, walls, patios, pool decks, pools, and graveled areas. Permeable pavement systems, including pervious concrete, modular block systems, porous

asphalt, or grass and gravel pavers, are considered Impervious Surfaces; however, each one square foot of properly installed permeable pavement system will be counted as 0.67 square foot of Impervious Surface. Permeable systems must reduce runoff volume by not less than 45% and must follow the design criteria as defined in Metropolitan Nashville and Davidson County’s green infrastructure practices manual GIP-03.

(k) *Maximum Impervious Surface Ratio.* The maximum Impervious Surface Ratio is as set forth in Table 4.02. Impervious Surface Ratio (ISR) is a measure of the intensity of the land use, which is determined by dividing the total area of all Impervious Surfaces on a Lot, including Building Cover, by the Lot Area.

(l) *Floor Area and Floor Area Ratio.* Floor Area is the total of the gross horizontal areas of all Floors, including attics and cellars that may be used for habitation in compliance with the City’s Building Code. Specifically excluded from the Floor Area are: (i) Basements, as specifically defined herein, and (ii) carports, porches, patios, balconies, and decks all of which must not be enclosed nor under roof to be excluded from the Floor Area and Floor Area Ratio calculation. Floor Area Ratio is a measure of the intensity derived by dividing the total Floor Area by the gross Lot Area.

(m) *Maximum Floor Area Ratio.* The maximum Floor Area Ratio is as set forth in Table 4.02.

**Table 4.02  
Residential Bulk Standards**

District	Min. Lot Area (acres)	Min. Lot Width (ft)	Min. Street Front (ft)	Front Yard Setback (ft)	Side Yard Setback (ft)	Rear Yard Setback (ft)	Max. Height (ft)		Max. Bldg. Cover	ISR	FAR
							Zone 1	Zone 2			
<b>EIA</b>	6	250	125	150	24%	100	27	35	0.05	0.14	0.075
<b>EA</b>	3	250	125	150	24%	100	27	35	0.06	0.16	0.090
<b>EB</b>	2	200	100	125	24%	75	27	35	0.08	0.18	0.120
<b>EC</b>	1.5	200	100	90	24%	50	28	30	0.09	0.20	0.135
<b>RA</b>	1.25	185	90	90	24%	50	28	30	0.10	0.20	0.150
<b>NC1</b>	1	100	80	90	24%	25	28	30	0.12	-	0.180
<b>NC2</b>	1	175	100	90	24%	40	28	30	0.12	-	0.180
<b>OS</b>	1	-	-	-	-	-	27	35	0.12	0.30	0.180

4.03. **Non-Residential Bulk Standards.** All non-residential uses shall meet the requirements of Table 4.03.

(a) The minimum Lot Area for premises to be used both as a Public or Private School and as a Place of Worship shall be the greatest area required for any of the uses plus one-half of the area required for each of the other uses.

(b) Places of Worship may have steeples or other architectural features that exceed the maximum height limitations set forth in Table 4.03 of this Zoning Ordinance, provided they meet the following requirements: (i) said steeples or other architectural features shall cover no more than five (5) percent of the total ground Floor Area; (ii) said steeples or other architectural features shall not exceed seventy (70) feet in height as measured from the ground beneath the steeple or other architectural feature to the top of the steeple or other architectural feature; (iii) said steeples or architectural features may exceed the aforesaid limitations in paragraphs (i) and (i) above, provided they are approved by the Board of Zoning Appeals.

**Table 4.03**  
**Non-Residential Bulk Standards**

<b>District</b>	<b>Min. Lot Area (acres)</b>	<b>Min. Lot Width (ft)</b>	<b>Front Yard Setback (ft)</b>	<b>Side Yard Setback (ft)</b>	<b>Rear Yard Setback (ft)</b>	<b>Max. Height (ft)</b>	<b>Max. Bldg. Cover</b>	<b>ISR</b>
<b>HC</b>	1.25	185	100	35	75	25	.05	.30
<b>IN (Places of Worship)</b>	10	400	150	150	100	45	.06	.35
<b>IN (K-6 School)</b>	20	400	150	150	100	45	.06	.40
<b>IN (7-12 School)</b>	50	400	150	150	100	45	.06	.40
<b>CC</b>	160	1000	500	500	500	35	.04	.12

4.04. **Temporary Concurrent Dwellings.** Only one principal Dwelling or principal Building is permitted on a single Lot; provided, however, that the City Manager may permit an owner of a Dwelling to continue to live in a Dwelling during the period that a replacement Dwelling is under construction on the same Lot. If so permitted, the owner of the Lot shall provide a performance agreement secured by a letter of credit pursuant to which the owner shall covenant to demolish the original Dwelling upon substantial completion of the replacement Dwelling.

4.05. **Accessory Use Bulk Standards.** All Accessory Uses shall meet the requirements of this Section.

(a) **Bulk Standards Generally.** All Accessory Uses shall be located in the Rear Yard and set back from the rear and side property lines as follows:

**Table 4.05(a)**  
**Accessory Use Bulk Standards**

<b>District</b>	<b>Rear Yard Setback</b>	<b>Side Yard Setback</b>
<b>E1A</b>	30'	60'
<b>EA</b>	30'	60'
<b>EB</b>	25'	50'
<b>EC</b>	20'	45'
<b>RA</b>	15'	45'
<b>NC1</b>	15'	20'
<b>NC2</b>	15'	40'
<b>OS</b>	15'	40'
<b>HC</b>	See 4.05(b)	See 4.05(b)
<b>IN</b>	See 4.05(c)	See 4.05(c)
<b>CC</b>	See 4.05(c)	See 4.05(c)

(b) **HC District.** Accessory Uses are not permitted in the Historic Commercial District, except that an existing shelter over gas pumps shall be permitted as provided in Section 2.03(a)(ii).

(c) **IN and CC Districts.** In the Institutional and Country Club Districts, no Accessory Use shall be located closer than one hundred (100) feet to the nearest property line; provided, further, that no lighted Accessory Use shall be located closer than two hundred (200) feet to the nearest property line.

(d) **Other Bulk Standards:**

(i) Height. Accessory Uses shall not exceed Zone 1 maximum height or the height of the principal Dwelling or principal Building, whichever height is lower. See Bulk Standards identified in Table 4.02 and Table 4.03.

(ii) Maximum Building Cover; Impervious Surface Ratio. The maximum Building Cover and Impervious Surface Ratio for an Accessory Use combined with a principal Dwelling or principal Building shall not exceed the Bulk Standards identified in Table 4.02 and Table 4.03.

(iii) Floor Area Ratio. The total Floor Area Ratio of all Accessory Uses combined shall not exceed 0.01.

(e) **Permissible Materials.** Accessory Uses shall be constructed of materials that are harmonious with the principal Dwelling or principal building by using natural tones and surfaces.

(f) **Time of Construction.** Construction of Accessory Uses shall not commence prior to commencement of construction of the principal Dwelling.

4.06. **Parking.**

(a) **Generally.**

(i) Off-Street Parking Space Allocations by Land Use Type. Off-street parking space for automobiles shall be provided on any Lot within any zoning district created under this Zoning Ordinance upon which any of the following uses listed in Table 4.06(a) are established:

**Table 4.06(a)**  
**Uses and Required Off-Street Parking Spaces**

<b><u>Type of Use</u></b>	<b><u>Minimum Number of Parking Spaces</u></b>
<b>Dwellings</b>	Two (2) spaces per Dwelling
<b>Places of Worship</b>	One (1) space for every three (3) seats in the main auditorium, sanctuary, or assembly room.
<b>Schools: Grades K - 6</b>	Two (2) spaces per classroom or one (1) space for every five (5) seats in an auditorium or assembly room, whichever is greater.
<b>Schools: Grades 7 - 12</b>	Four (4) spaces for each classroom or one (1) space for every five (5) seats in an auditorium or assembly room, whichever is greater. Additional space shall be provided for sports stadiums or gymnasiums so that the additional off-street parking equals one (1) space for every four (4) seats in the sports facility.
<b>Historic Commercial</b>	One (1) space per two hundred fifty (250) square feet of Floor Area, and one (1) space for every two (2) gasoline pumps.
<b>Country Clubs</b>	One (1) space for every three (3) members.

(ii) Determination of the Number of Off-Street Parking Space Required. In determining off-street parking spaces, if not shown by the submitted plan and actual count, four hundred (400) square feet of gross area per parking space shall be used. Where the calculation of the foregoing required off-street parking spaces results in a fractional number, the parking spaces required shall be construed to be the next highest whole number.

(b) **Special Locational Requirements for Specific Uses.**

(i) Places of Worship and Public or Private Schools. The parking lot of a Place of Worship and a Public or Private School shall be no closer than one hundred fifty (150) feet to the street and to the side and one hundred (100) feet to the rear Lot lines.

(ii) Country Clubs. The parking area for a country club shall be no closer than one hundred fifty (150) feet to a street and to the side and one hundred (100) feet to the rear Lot lines. The country club shall cause all persons using the facilities, including, without limitation, any persons using such facilities in connection with a special event or tournament, to park on

country club property and overflow parking facilities, or if such facilities are inadequate, said country club shall make arrangements to cause persons using its facilities to park at remote areas off country club property and not on the Right-of-Way of any public streets.

(iii) Historic Commercial. The parking area for a historic commercial use shall not be expanded after December 1991.

(c) **Filing of a Plan and Additional Requirements**. Before any permit is issued authorizing five (5) or more designated off-street parking spaces, a plan showing the location and proposed lighting of such off-street parking spaces, together with a Landscaping Plan, shall be filed with the City Manager. Said plans must, in all respects, comply with the provisions of this Zoning Ordinance and the Municipal Code, and all applicable local, state or federal regulations concerning handicapped parking spaces. Such off-street parking spaces shall be designed to contain no more than twenty four (24) parking spaces per parking lot and each parking lot shall be separated from other parking lots by a landscaped area. In addition, a buffer area (including where reasonable, possible, and appropriate, berms to screen the parking spaces from the street and/or adjoining Lots) shall be located along the periphery of all such parking lots.

#### 4.07. Driveways, Carports, and Garages.

(a) **Driveways**. The driveway for each Lot shall comply with the following requirements:

(i) Permit Required. All driveway or parking lot entrances onto any street for a principal Dwelling or principal building must be approved by the City Manager, in consultation with the City Engineer prior to issuance of approval by a building permit, or a separate driveway permit must be obtained if the driveway or parking lot entrance is not being constructed in connection with a permitted Principal Dwelling or principal building.

(ii) Dimensions; Culvert and Headwalls. Minimum width of a driveway shall be eight (8) feet. The minimum length of the culvert under the driveway shall be sixteen (16) feet and the minimum diameter of said culvert shall be eighteen (18) inches. The applicant shall be required to complete installation of the proper size culvert and headwalls, if required, stabilized ditches and finished driveway surface prior to occupancy of any principal Dwelling or principal building.

(iii) Slope. The Slope of the first fifteen (15) feet from the edge of the street pavement or to the ditch line, whichever is greater, shall be either flat or paved with a hard surface. Thereafter, the Slope shall not exceed a positive three percent (3%) grade for the next fifty (50) feet unless paved with a hard surface. Unless otherwise permitted by the Board of Zoning Appeals, the maximum allowable Slope for any driveway will be twenty percent (20%). The driveway shall be constructed to prevent storm water drainage and any portion of gravel or other debris from the driveway from running into the street.

(iv) Paving. All non-residential driveways, parking lots, and sloping residential driveways exceeding twenty percent (20%) slope shall be paved.

(v) Shared Driveways. No driveway shall serve more than two (2) Lots, provided however, the Board of Zoning Appeals (or the Planning Commission, in the case of a new subdivision) may approve a driveway serving up to four (4) Lots subject to the following additional requirements:

(1) the approval will not have a material negative impact upon adjoining Lots or Lots in the immediate vicinity;

(2) the easement for the driveway shall be a minimum of twenty-four (24) feet wide;

(3) the minimum width of the driveway shall be not less than ten (10) feet; and

(4) the users of the driveway shall enter into a driveway easement and maintenance agreement which shall be approved by the City Attorney and recorded in the Register's Office of Davidson County, Tennessee, and which shall contain certain language notifying all parties thereto that should the driveway ever be converted to a public or private street, the parties to the easement shall be responsible for upgrading the driveway to the applicable standards for public or private streets and for the cost of such construction upgrading.

**(b) Driveways Serving Five or More Houses; Private Streets.**

(i) Generally. Any driveway used, or intended to be used, for the service of five (5) or more Dwellings or other Structures (including, but not limited to, Guest Houses and Caretaker Cottages, Accessory Apartments, and non-residential uses) shall be deemed a private street and shall be constructed to the specifications set forth in the Subdivision Regulations.

(ii) Access to public street or road. Each private street system shall have direct access and connection to an existing public highway, street, road, or thoroughfare.

(iii) No Dedication for Public Benefit. The City shall have no obligation to maintain, repair, replace, or accept the dedication of a private street.

(iv) Plat Required. Any new private street shall be shown on a final plat approved by the Planning Commission and recorded in the real property records.

(c) **Driveways within the HP District**. Individual driveways and shared driveways with joint use and maintenance easements shall not exceed the maximum permitted grades specified in this Zoning Ordinance and the Subdivision Regulations. In addition, any retaining wall required for construction of a driveway shall be no more than ten (10) feet as measured from final grade and constructed of structurally sound materials so as to prevent erosion. Multiple retaining walls that are terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted. The maximum allowable cut and fill sections for any driveway shall be 20 feet. In addition, the construction of a driveway, utilities or other improvements shall not disturb more than twenty percent

(20%) of the area between a structure and the public street or authorized private street providing access to the Structure. Upon completion of a permitted driveway, suitable fill and soil material shall be installed on the disturbed slopes and topsoil with seed and mulch shall be installed so as to establish ground cover.

(d) **Carports.** All carports shall comply with the requirements of this Section:

(i) Orientation. The entrance to a carport shall not face the street on which the Lot is located. In the case of Corner Lots, the entrance to a carport shall not face either street, but shall face the Side Yard or Rear Yard only.

(ii) Knee Wall. Every carport shall include a knee wall of not less than four (4) feet in height on each wall except the entry.

(iii) Detached Carports. Detached carports are prohibited. Each carport shall share at least one (1) common wall with the principal Dwelling.

(iv) Materials. Every carport shall be constructed of materials and colors identical to, or closely compatible with, the color of the principal Dwelling so as to make the carport as visually unobtrusive as possible.

(e) **Garages.** No Garage doors may face the street on which the Lot is located. In the case of Corner Lots, Garage doors shall not face either street, but shall face the Side Yard or Rear Yard only.

#### 4.08. **Retaining Walls and Fences.**

(a) **Retaining Walls.** All retaining walls shall comply with the requirements of this Section:

(i) Engineered Plans. Construction of a retaining wall in excess of three (3) feet shall require engineered plans stamped and sealed by a professional engineer, which plans shall be reviewed and approved by the City Manager, or his designee, prior to issuance of a permit.

(ii) Retaining walls in excess of 10 feet. Retaining walls in excess of ten (10) feet in height as measured from the finished grade on the lower side thereof shall be prohibited.

(iii) Materials to be used. Retaining walls shall be constructed of structurally sound and durable materials and faced with stone, brick, or other suitable materials that blend into the natural terrain.

(iv) Driveways. Any retaining wall required for construction of a driveway shall be structurally sound so as to prevent erosion. Multiple retaining walls that are terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted.

(b) **Fences.** All Fences shall comply with the requirements of this Section.

(i) Generally.

(1) *Permit Required.* A permit is required prior to construction of any Fence. Each applicant for a Fence permit shall pay the fee required pursuant to the Fee Resolution.

(2) *Measurement of Height.* Fences shall be measured from the finished grade on the lower side thereof.

(3) *Location.* No Fence shall be constructed on or within any street or public Right-of-Way; within any section of a recorded public utility, drainage or detention pond easement; or on private property near an intersection and/or driveway entrance in a manner that creates a visual obstruction or safety hazard for vehicular traffic and pedestrians.

(4) *Support Orientation.* Any exposed support and cross framing for a Fence shall be located on the inside of the Fence and oriented toward the principal portion of the Lot upon which the Fence is erected to serve. The finished side of a Fence shall face the adjacent properties and street.

(5) *Temporary construction sites.* A Fence up to six (6) feet in height may be permitted for safety and security purposes for the duration of a construction project, provided that visibility through the Fence is not obstructed.

(6) *Maintenance.* All Fences shall be maintained in a safe, structurally sound and upright condition, and present a uniform appearance so as not to constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair include, but are not limited to: leaning Fences; Fences that are missing slats, parts, or blocks; holes; breaks; rot; cracking or peeling paint; rust; graffiti; or other broken, damaged, or removed material.

(7) *Materials.* The city encourages the use of Fences that blend in with the natural environment and are aesthetically pleasing. Examples of such preferred Fences include (a) four rail wooden fences, stained dark brown, with or without wire fencing (as may be appropriate to control livestock or animals) attached to the side of the Fence oriented toward the principal portion of the Lot, and (b) decorative metal fencing made with wrought iron or powder-coated steel or aluminum.

(ii) Prohibitions.

(1) Fences made with barbed wire and/or like material and chain link Fences with exposed spike ends are prohibited, except for farm Fences permitted pursuant to Section 4.08(b)(iii)(1).

(2) No privacy Fence, solid Fence, or other Fence shall be constructed such that visibility through the Fence is obstructed; provided, however, that nothing shall

prohibit the construction of a stone or brick Fence in accordance with the other requirements of this Section.

(iii) Within Non-Residential Zoning Districts. Fences are permitted pursuant to the Landscaping Plan requirements and other provisions of Section 2.03.

(iv) Within All Residential Zoning Districts.

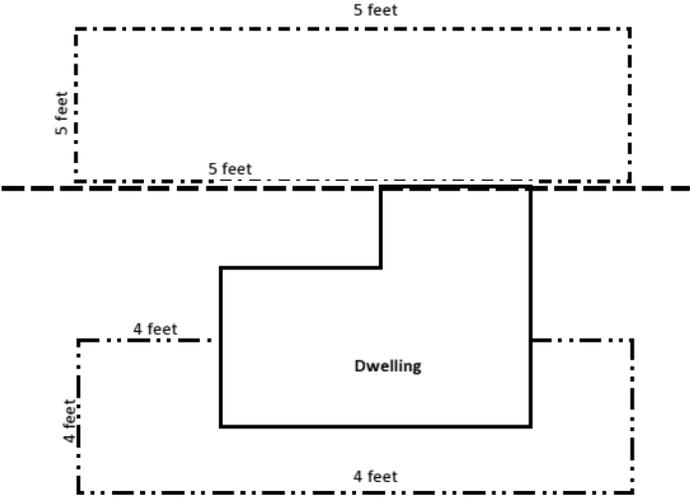
(1) Where livestock are permitted pursuant to this Zoning Ordinance, farm fences (wire, barbed wire, other appropriate wire products, stone or wood rail) may be erected. No razor wire or similar product shall be installed above the top of any Fence.

(2) A Fence not more than four (4) feet in height may be located at any location on a Lot, except as is required for health and safety purposes by the edition of the International Residential Code as adopted by the City.

(3) A Fence may be constructed between the side Lot line and the Dwelling, provided that (i) the Fence shall not exceed 4 feet in height, and (ii) the Fence connects to the rear corner of the Dwelling on the Lot, or an offset to the rear of such corner sufficient, in the opinion of the City Manager, or his designee, to provide a reasonable turning area for automobiles backing out of a garage located inside the rear corner of the Dwelling.

(4) A Fence not more than 5 feet in height may be located anywhere in a Side Yard or Rear Yard as shown in Figure 4.08(b) below, provided that the Fence shall extend no closer to the front Lot line than its intersection with a line from it to the rear corner of the Dwelling, located and/or offset as required above.

**Figure 4.08(b)**



(v) Within the E1A Zoning District and EA Zoning District. Within the E1A Zoning District and the EA Zoning District, a Fence not to exceed 6 feet in height may be

constructed on the front Lot line, provided that it is constructed such that visibility through the Fence is not obstructed.

(vi) Chain link fences.

(1) *Prohibited.* Chain link Fences are prohibited, except as may be conditionally permitted pursuant to subsection (2) below.

(2) *Conditional Permits.* Chain link Fences may be conditionally permitted under the following circumstances:

(a) the chain link Fence must not be visible from any street Right of Way or any Dwelling on an adjacent Lot, unless the owner of the Dwelling consents in writing to construction of the chain link Fence;

(b) the chain link Fence must be coated with a black, dark green or dark brown coating made of polymer or similar material;

(c) the chain link Fence must not exceed four feet in height;

(d) the Yard between the Fence and all adjacent Lots must be landscaped such that not less than 50% of the height of the Fence, as measured from the finished grade, is obscured by landscaping; and

(e) the Board of Zoning Appeals grants a conditional use permit for the construction of said chain link Fence.

4.09. **Lighting.** To encourage lighting practices and systems which will minimize light pollution, glare and light trespass; control excessive lighting levels; conserve energy and resources while maintaining night-time safety, utility, security and productivity; and curtail the degradation of the night-time visual environment, the following requirements shall apply:

(a) **Residential Lighting Standards.** Any eve lights or other lighting used to illuminate any building, Structure, off-street parking areas, athletic court, athletic field, or any landscape feature located in any residential zoning district shall not be directed toward adjacent Lots in such a way as to create a nuisance and no such lighting shall exceed one-half (1/2) footcandle at any point on or above the property line of the Lot.

(b) **Non-Residential Lighting Standards.** Any lighting used on any Lot in any non-residential zoning district shall comply with the following requirements:

(i) General Requirements.

(1) Outdoor floodlighting by flood light projection above the horizontal plane is prohibited.

(2) All light fixtures that are required to be shielded shall be installed in such a manner that the shielding is effective as described in the definitions for Fully and Partially Shielded Fixtures.

(3) All light fixtures, except City street lights, shall be located, aimed or shielded so as to minimize stray light trespassing across Lot boundaries and shall emit no more than one-tenth (0.1) vertical footcandle of light as measured at the line of sight at any location on an adjacent property.

(4) Search lights, laser source lights, or any similar high-intensity light shall not be permitted, except in emergencies by police and fire personnel or at their direction.

(5) Lighting may continue after 9:00 p.m. only if and for so long as the illuminated area is in active use.

(6) Illumination for outdoor recreation must conform to the shielding requirements of Table 4.09(b). Specifically, tennis, volleyball, racquetball, handball courts and other athletic courts or fields and Swimming Pools must utilize Fully Shielded Fixtures.

(7) For all new buildings, Structures, or additions thereto where an engineer or architect is required, the developer shall verify in writing to the City that all outdoor lighting was installed in accordance with the approved plans.

(8) No outdoor internally illuminated signs shall be permitted. Externally illuminated signs shall be lighted using fixtures mounted at the top of the sign and aimed downward.

(9) The use of fixtures that are not aimed at zero degrees (straight down), e.g., floodlights and spotlights, is not allowed except as expressly permitted by the City based on the application and the acceptable control of glare, light trespass and sky glow.

(10) Flashing lights, except for seasonal decorations, are prohibited.

(11) Lighting fixtures shall not be mounted in excess of twenty (20) feet above finished grade, except as specifically approved by the City.

(12) All illumination intensities and uniformities shall be in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA).

(ii) New Developments, Buildings, Dwellings, Structures and Additions. All new developments, buildings, Structures, or additions thereto of twenty-five (25%) percent or more in terms of gross Floor Area, seating capacity, or other units of measurement specified herein, either

with a single addition or cumulative additions subsequent to the Controlling Date, shall meet the requirements of this Section 4.09 for the entire Lot. For all additions of less than twenty-five (25%) percent cumulative, the applicant shall only have to meet the requirements of this Section 4.09 for any new outdoor lighting provided. However, for all lighting for off-street parking spaces requiring a plan pursuant to Section 4.06(c) hereof, such lighting shall meet the requirements of this Section 4.09 for the entire Lot.

(iii) Approved Materials and Methods of Construction or Installation/Operation.

(1) Preferred Source - High-pressure Sodium (HPS) lamps are the preferred illumination source throughout the city; their use is to be encouraged, when not required, for outdoor illumination whenever its use would not be detrimental to the use of the Lot. Low-pressure Sodium (LPS) lamps are an acceptable alternative to HPS lamps.

(2) The provisions of this Section 4.09 are not intended to prevent the use of any design, material or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved by the City Manager and City Engineer. The City Manager may approve any such proposed alternate provided the City Manager, after consultation with the City Engineer, makes a finding that it:

- (a) Provides at least approximate equivalence to the applicable specific requirements of this Section 4.09; and
- (b) Is otherwise satisfactory and complies with the intent of this Section 4.09.

**Table 4.09(b)**  
**Shielding Requirements**

<b><u>Fixture Lamp Type</u></b>	<b><u>Shielding Requirement</u></b>
Low Pressure Sodium <sup>10</sup>	Partially
High Pressure Sodium	Fully
Metal Halide <sup>11</sup>	Prohibited
Fluorescent <sup>12</sup>	Fully
Incandescent greater than 160 watt	Fully
Incandescent between 60 and 160 watt	Partially
Incandescent of 60 watt or less	None

<sup>10</sup> This is the preferred light source to minimize undesirable light emission into the night sky. Fully shielded fixtures are preferred but not required.

<sup>11</sup> Fully shielded and installed metal halide fixtures shall be allowed for applications where the designing engineer deems that color rendering is critical. Metal halide fixture lamps shall be filtered. “Filtered” means any outdoor light fixture which has a glass, acrylic, or translucent enclosure of the light source (quartz glass does not meet this requirement).

<sup>12</sup> Warm white and natural lamps are preferred to minimize detrimental effects.

Light source less than 1000 lumens that is not within any category above	None
Other sources	As approved by City Manager

(iv) Submission of Plans and Evidence of Compliance. The applicant for any permit required in connection with proposed installation of outdoor lighting fixtures shall submit evidence that the outdoor lighting fixtures will comply with the provisions of this Section. Upon application for the required permit, the submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Zoning Ordinance or as required by the City Manager:

- (1) plans indicating the location the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
- (2) description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings;
- (3) photometric data, such as that furnished by manufacturers or similar showing the angle of cut off or light emissions;
- (4) pole foundation details;
- (5) 10' x 10' footcandle grid plots for multiple-fixture installations and an isocandle plot for single fixture installations;
- (6) proposed minimum, average and maximum levels and uniformity ratios for multiple-fixture installations;
- (7) description of the method of control of the fixtures, e.g., photocell, timer or motion sensor; and
- (8) proposed hours of operation.

The lighting plan and all required data shall be sufficiently complete to enable the City Manager to determine that the lighting will comply with the requirements of this Section 4.09. If the lighting plan and required data cannot enable this determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports or tests as will do so provided that any such tests shall have been performed and certified by a recognized testing laboratory.

(c) **Street Lights.** The Board of Commissioners shall have the authority to determine, in its sole discretion, whether there shall be street lights on any public or private street. Furthermore, the Board of Commissioners shall have the authority to approve, in its sole discretion, the number and location of street lights in any location. All street lights shall be installed utilizing fixtures approved by Nashville

Electric Service and the Planning Commission. The Board of Commissioners shall determine and allocate the responsibility for payment for installation and maintenance of all street lights.

4.10. **Signs.**

(a) **Generally.**

(i) All Signs shall conform to the standards set forth in Table 4.10(b) and Table 4.10(c) and shall be maintained in a safe, orderly and presentable manner by the holder of the sign permit.

(ii) No Sign, other than Real Estate, Security Signs and Political Signs shall be erected without a sign permit. No Sign of any nature whatsoever shall be placed within the Right-of-Way. No Sign shall be illuminated except as provided in Section 4.09.

(iii) Any real estate broker licensed by the State of Tennessee and who maintains an office in such broker's residence and who is obligated pursuant to T.C.A. § 62-13-309(b) to maintain a Sign on the outside of the broker's residence shall be permitted to attach a personal identification sign in satisfaction of state law (a "**Broker Sign**"). Such personal identification sign must be affixed to the residence and shall not exceed one (1) square foot in size.

(iv) The City Manager shall inform the sign permit holder when, in the opinion of the City Manager, the Sign or Signs need repair or maintenance. If said repair or maintenance is not completed within thirty (30) days, the City Manager or the City Manager's designee may have the Sign or Signs removed.

(v) Any Structure which primarily serves the purpose of supporting or displaying any Sign shall be included in calculating the size and height requirements set forth in Table 4.10(b) and Table 4.10(c).

(vi) The City Manager, or his designee, is hereby authorized to remove, or cause to be removed, any sign within the city that does not comply with the requirements of this Section. Any signs removed by the City Manager or his designee shall be disposed of; and, the city will not be responsible for damage to any sign so removed.

(b) **Permanent Sign Standards.** All signs requiring permanent attachment shall comply with the following standards:

**Table 4.10(b)**  
**Permanent Sign Standards**

<u>Use</u>	<u>Type</u>	<u>Size (sq. ft.)</u>	<u>Height (ft.)</u>	<u>Number Per Street</u>
<b>Subdivision</b>	Ground	25	6	1
<b>Institutional Use<sup>13</sup></b>	Ground	25	6	1
<b>Country Club</b>	Ground	12	5	1
<b>Security</b>	Ground or attached to mailbox	1	3	1
<b>Historic Commercial</b>	Wall	12	1	1
<b>Any Other Nonresidential Sign</b>	Ground	12	5	1
<b>Broker Sign</b>	Attached to Dwelling	1	1	1

(a) **Temporary Sign Standards.** All signs not requiring permanent attachment shall comply with the following standards:

**Table 4.10(c)**  
**Temporary Sign Standards**

<u>Use</u>	<u>Type</u>	<u>Size (sq. ft.)</u>	<u>Height (ft.)</u>	<u>Number Per Street Frontage</u>
<b>Real Estate Sign</b>	Ground	25	5	1
<b>Subdivision</b>	Ground	25	6	2
<b>Special Events</b>	Ground	25	6	1
<b>Political Sign</b>	Ground	16	5	1
<b>Construction Sign</b>	Ground	8	5	1

(i) These temporary sign standards shall apply in all zoning districts.

(ii) Real Estate Signs must be removed within 7 days from any Lot upon termination of the listing or closing of a sale of the Lot for which the Real Estate Sign was erected. If a Real Estate Sign is not removed within such time, a penalty of \$25 per day will be due to the City from the realty company or the individual whose name is on the sign, beginning on the 8th day after the termination of the listing or closing.

(iii) On the day property is open for inspection, a separate “Open House” Sign may be placed beside the Real Estate Sign. Directional Signs not exceeding two (2) square feet in

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<sup>13</sup> Sign shall be located no closer than 20 feet to Lot line.

size nor more than two (2) feet in height above the ground may be placed at street corners on weekends (4:00 p.m. Friday - 8:00 p.m. Sunday or 8:00 p.m. if the Monday is a national holiday). No Directional Signs for property located outside of the City are permitted.

(iv) Temporary Subdivision Signs may remain in place for twelve (12) months, or until permanent entry is completed, whichever occurs first.

(v) Special Event Signs may be installed no earlier than one week prior to the event and must be removed within two (2) days after the event.

(vi) Political Signs are to be erected no sooner than ninety (90) days prior to an election and shall be removed within thirty (30) days after the election.

(vii) Construction Signs shall not be erected sooner than ten (10) days prior to the commencement of construction and shall be removed within five (5) days after completion of construction.

4.11. **Visibility At Street Intersections.** To ensure adequate vehicle sight distance at street intersections, no fence, planting, wall, sign, structure or other obstruction may be erected or maintained in excess of two (2) feet in height within two hundred (200) feet of the corner of any intersection (as the lines of the Right-of-Way are extended to create such a corner) on residential collector streets or within two hundred seventy-five (275) feet on all scenic arterial and arterial streets.

## ARTICLE V. LANDSCAPING

5.01. **Purpose and Intent.** It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs and other plants within the city. The intent of this section is to promote this purpose by:

(a) Ensuring the planting, proper installation, maintenance, and survival of trees, shrubs, and other plants;

(b) Reducing storm water impacts and the costs associated therewith while also mitigating against erosion and sedimentation through the establishment of root systems and appropriate groundcovers intended to protect and restore soils and land denuded as a result of construction, grading, or other land disturbing activity;

(c) Enhancing the appearance and visual quality of the built landscape through the use of an appropriate variety of plant types, sizes, species, and placement, while also providing visual screening of service areas; and

(d) Protect and enhance property values and quality of life, softening of the built environment through plantings, and integration of existing vegetation.

5.02. **Applicability of Landscaping Standards.** These provisions of this Section shall apply to (i) all applications to the Board of Zoning Appeals for variances, special exceptions, conditional uses, or other relief from the Zoning Ordinance, (ii) all tree replacement required by Section 6.05 of this Ordinance, and (iii) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance.

### 5.03. **Landscaping Plan Requirements.**

(a) **Requests to the Board of Zoning Appeals.** All applications to the Board of Zoning Appeals for variances, special exceptions, conditional uses, or other relief from the Zoning Ordinance shall be accompanied by a Landscaping Plan to be reviewed and approved by the Board of Zoning Appeals. Said Landscaping Plan must minimize the loss of grasses, shrubbery, and landscaping and provide screening of adjacent properties.

(b) **Tree Replacement and Grading Permits.** When a property owner must replace trees pursuant to Section 6.05 of this Ordinance or applies for a grading permit pursuant to the Storm Water Management Ordinance, the applicant shall submit a Landscaping Plan together with all other materials required for the applicable permit. The Landscaping Plan shall be reviewed and approved by the City Manager, or his designee, to ensure that the proposed landscaping will minimize the loss of trees, grasses, shrubbery, and landscaping pursuant to the grant of the permit.

5.04. **Adoption of Approved Landscaping Plan.** Whenever a Landscaping Plan has been required and approved hereunder, the terms of such approved Landscaping Plan shall be incorporated into, and become a requirement of, the applicant's building or grading permit.

## ARTICLE VI. RESOURCE PROTECTION STANDARDS

6.01. **Purpose.** The general purpose of this Article is to establish standards for the protection of natural and historical resources within Forest Hills from the potential harmful effects associated with development. Furthermore, it is also the general purpose of this Article to implement the resource protection recommendations of the Comprehensive Plan. In addition to these general purposes, the following are specific purpose statements for the protection of certain resources:

(a) **Floodways and Floodplains, Surface Waters, and Wet Weather Conveyance Protection.** Areas of the City are subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of governmental services, extraordinary public expenditures for flood prevention and relief, all of which adversely affect the public health, safety and general welfare. Furthermore, the City and its neighbors benefit from ponds, streams, and creeks, all of which provide scenic beauty which, if protected, enhance the quality of life and the quality of the environment for all residents of the City. It is the purpose and intent of this Section to promote the public health, safety and general welfare by regulating uses that are vulnerable to water or erosion hazards, uses that increase the volume and quantity of storm water flow, and uses that degrade water quality.

(b) **Steep Slope and Slippage Soils Protection.** The purpose of the steep slope and slippage soils protection standards is to guide development on hilltops, ridgetops, Steep Slopes and Slippage Soils to protect natural areas and features and to locate development, where possible, in areas that do not have severe environmental limitations. It is the intent of these standards to (i) protect the hillsides and hilltops of the city because development thereon increases runoff, erosion, sedimentation, and the potential for slope destabilization; (ii) undertake development in a manner that protects life and property from hazards due to slope, unstable and erodible soils, earth movement, and other geologic and hydrologic hazards; (iii) preserve the visual quality of Steep Slope areas, which are valuable natural and economic resources; and (iv) limit development on Slippage Soils where there is a possibility of substantial property damage.

(c) **Woodland And Tree Protection.** The purpose of the woodland and tree protection standards is to limit the destruction of and ensure the survival of trees. The maintenance of existing trees and replanting of new trees is necessary to promote the value of property and the quality of life of its citizens; to ensure the stabilization of soil by prevention of erosion; to reduce storm water runoff and the costs associated with it; to replenish the groundwater supply; and to cleanse the air of harmful pollutants.

(d) **Historic And Cultural Resource Protection.** The purpose of the historic and cultural resource protection standards is to protect the historic and cultural resources of the City that are an integral part of the City's character and charm.

### 6.02. Floodways And Floodplains; Surface Waters; And Wet Weather Conveyances.

(a) **Applicability.** The provisions of this Section shall apply to all Lots where Floodways, Floodplains, Surface Waters, and Wet Weather Conveyances exist.

(b) **Technical Standards.**

(i) **Water Quality Buffer Areas.** Wherever a Water Quality Buffer Area is required by this Section, the Water Quality Buffer Area shall be established, protected, and maintained as follows:

(1) The buffer shall measure 25 feet perpendicular from the top of bank on each side of a Floodway, Floodplain, Wet Weather Conveyance and any Surface Water that serves as a channel or conduit of water; and 50 feet around the perimeter of a pond or lake.

(2) The Water Quality Buffer Area shall remain undisturbed except for the following disturbances:

(a) Limited disturbances to remove and/or plant trees or vegetation, as required to maintain the overall health of vegetation in the buffer area, including, but not limited to, routine mowing and trimming of grass, weeds, and limbs.

(b) Removal of individual trees that are in danger of falling, causing damage to Dwellings or other Structures, are dead or diseased, or have been heavily damaged by storms. The root wad or stump should be left in place, where feasible, to maintain soil stability.

(c) Removal of trees or plants listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Plant Council.

(d) Disturbances necessary for the construction of utility access areas and approved stream crossings as long as the crossings are perpendicular or as near to perpendicular as possible to the channel.

(e) Disturbances as required to establish and/or restore buffer areas.

(3) Any approved disturbance of a Water Quality Buffer Area shall be revegetated in kind and/or enhanced subject to the requirements of § 14-506(2)(a) of the Municipal Code and approval of the City Manager.

(ii) **Floodways and Floodplains.**

(1) Generally. A Water Quality Buffer Area shall be established, protected, and maintained along the edges of all Floodways and Floodplains. The Water Quality Buffer Area shall measure twenty-five (25) feet perpendicular from each edge of the Floodway or Floodplain.

(2) Floodways. Construction within a Floodway is expressly prohibited.

(3) Floodplains. Construction of new Dwellings or other Structures within a Floodplain is generally prohibited. If a Floodplain covers a Lot of record as of the Controlling Date, to the extent that an existing Structure cannot be otherwise altered, expanded or replaced, then any construction shall be performed in strict accordance with

the requirements of the FP District requirements in Section 2.05 of this Ordinance and Title 14, Chapter 3 of the Municipal Code.

(iii) **Surface Waters and Wet Weather Conveyances.** A Water Quality Buffer Area shall be established, protected, and maintained along the edges of all Surface Waters and Wet Weather Conveyances. The Water Quality Buffer Area shall measure twenty-five (25) feet perpendicular from the top of bank on each side of a Wet Weather Conveyance and any Surface Water that serves as a channel or conduit of water; and fifty (50) feet around the perimeter of a pond or lake.

(c) **Development Standards.**

(i) **Geotechnical Study.** As part of the building permit application, the applicant shall submit to the City a Geotechnical Study that evaluates site characteristics and recommends design and construction methods that ensure proper and structurally sound soil conditions during and after construction. Each Geotechnical Study shall contain a report or study of a subject property in accordance with the professional standard of care generally practiced by engineers in Middle Tennessee. Each Geotechnical Study shall include, but not be limited to, (1) a review of project needs, (2) a site investigation of soil properties and characteristics, (3) a risk assessment, (4) recommendations for stabilization and related construction practices to reduce the risks of construction, erosion, and slippage as well as to ensure that the proposed construction will not degrade slope stability or pose a threat to the public health, safety and welfare, (5) an engineering report designing and sizing the drainage system and the footings for all Structures in accordance with the best practices in the field, and (6) a schedule of excavation and construction with an erosion control plan and a schedule of inspections to be completed by the City Engineer or the applicant's engineer. As a condition to receiving a permit, the applicant shall be obligated to adopt the recommendations of such Geotechnical Study. When a building or land disturbance permit does not require issuance of a use and occupancy permit upon completion of the project, the applicant shall provide a performance agreement and performance bond to secure such agreement, if so required by the City Manager in his reasonable discretion. The City Manager or his designee may require additional or special studies where warranted.

(ii) As a condition to receiving any permit (for building, grading or otherwise) the applicant shall adopt the recommendations of the professional engineer who provided the site plan, which recommendations shall be incorporated into the terms of the applicable permit.

6.03. **Steep Slopes, Hillside Protection and Slippage Soils.**

(a) **Applicability.** Unless exempted from compliance pursuant to Section 2.06(c)(ii), construction within the HP District and on Slippage Soils shall comply with the following standards.

(b) **Technical Standards.** Where the provisions of this Section are applicable, the following technical standards shall apply:

(i) **Maximum Allowable Area of Disturbance.** Not more than then percent (10%) of the total acreage of that portion of the Lot encumbered by Steep Slopes or Slippage Soils may be disturbed.

(ii) Footings. All buildings, Dwellings, Structures or walls, whether for retention or diversion, shall have their foundations installed with footings dug to bedrock or tied to bedrock with appropriate piers if soils are greater than 5 feet in depth.

(iii) Diversion Walls; Structural Strength. The uphill side of all buildings, Dwellings or Structures shall be protected from slide damage by construction of diversion walls or increased structural strength. The Geotechnical Study to be provided pursuant to this Section shall certify that the building, dwelling, structure or diversion wall is designed to resist a slippage equal to the depth of soil for a distance twenty feet (20') uphill of the Structure.

(iv) Drainage.

(1) On the uphill side of areas within the HP District or with Slippage Soils, all runoff from roofs, driveways and other impervious areas shall be run into a drainage system that intercepts the storm water around the area and conveys them into properly constructed channels.

(2) Any building, Dwelling or Structure, either proposed or existing, within the HP District or with Slippage Soils shall have drainage protection installed that does not increase drainage to adjoining properties.

(v) Vegetation. Construction work shall minimize removal of vegetation through industry standard construction practices.

(c) **Development Standards.**

(i) Geotechnical Study. As part of the building permit application, the applicant shall submit to the City a Geotechnical Study that evaluates site characteristics and recommends design and construction methods that ensure proper and structurally sound soil conditions during and after construction. As a condition to receiving a permit, the applicant shall be obligated to adopt the recommendations of such Geotechnical Study. When a building or land disturbance permit does not require issuance of a use and occupancy permit upon completion of the project, the applicant shall provide a performance agreement and performance bond to secure such agreement, if so required by the City Manager in his reasonable discretion. The City Manager or his designee may require additional or special studies where warranted.

(ii) Supervision of Work. Construction work shall be supervised by a duly licensed geotechnical engineer to the extent that he or she can issue a statement of compliance with the approved plans at the conclusion of all construction work outlined in the plan. No Certificate of Occupancy, if applicable, shall be issued until this statement has been received by the City Manager.

(iii) Board of Zoning Appeals Approval. Board of Zoning Appeals approval shall be required prior to (1) the construction or erection of any new residential Dwelling or any other new Structure that requires a building permit, and (2) any land disturbance activity that requires a permit pursuant to the Storm Water Management Ordinance, unless exempted by the

terms therein. As part of its application to the Board of Zoning Appeals, the applicant shall provide the Geotechnical Study required pursuant to Section 6.03(c) and all other materials requested by the Board of Zoning Appeals pursuant to its adopted rules and regulations.

(iv) Certificate of occupancy. Prior to completion of a Structure within the HP District or with Slippage Soils and issuance of a certificate of occupancy, an inspection shall be conducted by the responsible city official(s), to determine if the improvements have been completed according to the approved site plan and/or Geotechnical Study. If at any time during construction it is determined that the work being performed is not in compliance with the requirements of this Section and the approved site plan, a stop work order shall be issued immediately. The order shall remain in effect until the work is brought into compliance with this Zoning Ordinance.

6.04. **RESERVED.**

6.05. **Woodland And Tree Protection.**

(a) **Applicability.**

(i) The standards of this Section shall apply to (i) the approval of any newly platted Lot, (ii) the construction or erection of any new residential Dwelling or any other Structure that requires a building permit, and (iii) any land disturbance activity requiring a permit pursuant to the Storm Water Management Ordinance, unless exempted in accordance with Section 6.05(a)(ii).

(1) Removal of existing vegetation shall not occur on a Lot subject to the terms of this Section until such time as a permit has been issued.

(2) In the event vegetation requiring protection pursuant to this Section is removed from a site within three (3) years prior to application for construction or development, such development shall be subject to the re-vegetation requirements of Section 6.05(d).

(3) Existing trees located between a proposed Building or Structure and the adjacent public right of way of a primary or secondary street with a Diameter Breast Height (“DBH”) of 8 inches or greater shall be preserved. This preservation requirement related to existing trees with 8 inch DBH or greater may be appealed to the Board of Zoning Appeals.

(ii) **Exemptions.** The following development and construction activities and types of vegetation are exempt from the standards of this Section:

(1) The removal of dead or naturally fallen trees or vegetation.

(2) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing necessary field survey work.

(3) The removal of vegetation in accordance with a permit approved prior to the Controlling Date.

(4) The actions of public and private utility companies within their utility easements.

(5) Removal of trees listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Plant Council.

(b) **Technical Standards.**

(i) Existing Tree Canopy Retention Standards. Table 6.05(b) establishes the percentage of trees on a Lot that shall be retained and protected, based on the percentage of the Lot covered by trees.

**Table 6.05(b)**  
**Tree Retention Standards**

<u>Existing Trees (as a percent of the Lot size)</u>	<u>Minimum Percentage of Existing Trees that Shall be Retained (as a percent of the total pre-development tree canopy cover)</u>
91-100%	48%
81-90%	51%
71-80%	54%
61-70%	57%
51-60%	60%
41-50%	63%
31-40%	66%
21-30%	69%
11-20%	72%
10% or less	75%

(ii) Tree Replacement. If an applicant is unable to retain the trees required pursuant to Table 6.05(b), as a condition of receiving a permit, the applicant shall be obligated to replace the lost trees in a manner sufficient that when the replacement trees reach full maturity, the Lot shall be in compliance with this Section.

(iii) Upon condition that a Grading Plan clearly demonstrates that it is impractical to preserve existing tree(s) in connection with driveway access, grading, or other site improvements, such trees may be removed subject to administrative approval. Removed trees 8 inches in DBH or greater shall be replaced at a rate of 1 inch for every 1 inch removed. Decisions concerning the application of this Subsection may be appealed to the Board of Zoning Appeals.

(c) **Development Standards.**

(i) Retention of Existing Trees.

(1) *Tree Inventory Required.* Prior to beginning any tree clearing, development work, or land disturbing activity to which the standards of this Section are applicable, the applicant shall prepare and submit an inventory of all trees on the Lot, subject to the following requirements:

(a) *Generally.* (1) The tree inventory shall be prepared at the same scale as a Landscaping Plan and shall identify all trees on the Lot and their approximate lot coverage, and (2) the inventory shall depict all trees to be retained in accordance with this Section.

(b) *Professionally Prepared; Aerial Photography.* Tree inventories may be prepared by a landscape architect, surveyor, arborist, forester, or engineer registered with the State; or aerial photographs, coupled with site photography, may be substituted for the inventory if the photography provides adequate detail in the discretion of the City Manager to assess compliance with this Section. Said aerial photography shall be no older than the most recent aerial photography maintained by the City.

(2) *Review by City.* Any tree inventory prepared by a landscape architect, surveyor, arborist, forester, or engineer registered with the State and submitted to demonstrate compliance with Table 6.05(b) shall be deemed accurate with respect to the calculation of existing trees as a percentage of Lot size. A tree inventory submitted by any other party or resident shall be reviewed by the City Manager, or his designee, to assess compliance with Table 6.05(b) with respect to the calculation of existing trees as a percentage of Lot size.

(3) *Existing Tree Protection During Construction.* During development, the applicant shall be responsible for the erection of barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(d) **Removal of Protected Trees.** In cases where tree clearing, development work, land disturbance as part of construction, or intentional damage to trees occurs in violation of the standards of this Section, the following shall apply:

(i) Replanting shall be required at a rate of 80 trees for each acre disturbed in excess of the tree retention standards defined herein or an inch-by-inch caliper replacement.

(ii) Replacement trees shall have a minimum DBH of two inches at the time planted.

(iii) Replacement trees shall be maintained through an establishment period of at least three years. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees, and the establishment period shall reset.

6.06. **Historic And Cultural Resource Protection.**

(a) **Reserved.**

(b) **Protection Standards For Stonewalls, Cemeteries, and Archaeological sites.** No new building or addition shall be located within twenty-five (25) feet of (i) historic, dry-stack stonewalls, (ii) cemeteries, (iii) archaeological sites, or (iv) vestiges of early human habitation as shown on that certain survey of stonewalls, cemeteries and archaeological sites maintained by the city.

## **ARTICLE VII. NON-CONFORMITIES**

7.01. **Purpose.** All buildings, Dwellings, Structures, Lots and uses governed by other provisions of this Zoning Ordinance and the specific zoning districts established herein shall continue to be governed by said provisions. A building, Dwelling, Structure, Lot or use for which a variance, permit or special exception has been granted with respect to provisions of this Zoning Ordinance not governed by this Article VI, shall not be deemed Nonconforming and shall continue to be governed by those other relevant provisions of this Zoning Ordinance. All other buildings, Dwellings, Structures, Lots and uses in existence on the Controlling Date, which do not conform to the provisions of this Zoning Ordinance and/or the provisions of the zoning district wherein the building, Dwelling, Structure, Lot or use is located, shall be deemed Nonconforming and shall be governed by the provisions of this Article.

### 7.02. **Nonconforming Buildings, Dwellings And Structures.**

(a) Any Nonconforming building, Dwelling or Structure existing on the Controlling Date may be continued in the form of its existence on the Controlling Date.

(b) If any Nonconforming building, Dwelling or Structure is abandoned for a continuous period of twelve (12) months, then its use and occupancy shall not be reestablished and the owner of the Lot where the abandoned building, Dwelling or Structure is located shall remove same from said Lot within a reasonable period of time, not to exceed six (6) months after the date of the end of the continuous abandonment; provided however, within said six (6) month period, said Lot owner may apply to the City for a new building permit, in accordance with Article VIII hereof, to renovate and restore said abandoned building, Dwelling or Structure, provided further however, said renovation and restoration shall comply in all respects with the bulk standards, setbacks, building size, height requirements, coverage requirements and all other standards of the applicable zoning district. In the event the said Lot owner applies to the City for a new building permit, then the City Manager shall refer the building permit application to the Board of Zoning Appeals for review and approval.

(c) As a matter of right, the owner of any Lot located anywhere in the City, upon which a Nonconforming building, Dwelling or Structure is located and in use, may change, alter or expand the said building, Dwelling or Structure, provided said building, Dwelling or Structure, after such change, alteration or expansion, shall conform in every respect with the bulk standards, setbacks, building size, height requirements, coverage requirements and all other standards of the zoning district in which it is located. Also, as a matter of right, a Nonconforming building, Dwelling or Structure may be altered within the confines of the outer walls of the building, Dwelling or Structure by rearranging rooms, moving interior walls and making other such physical alterations to the interior of the building, Dwelling or Structure.

(d) Except as set forth in Section 7.02(c) above, in the event the owner of any Lot wishes to alter or change any Nonconforming Building, Dwelling, or Structure that does not expand or increase the nonconformity, said owner shall apply to the City for a building permit for the alteration or change. Any building permit application for any alteration or change to any Nonconforming Building, Dwelling, or Structure that expands or increases the nonconformity shall referred to the Board of Zoning Appeals.

(e) Whenever a Nonconforming building, Dwelling or Structure has been changed to a conforming building, Dwelling or Structure, it shall not thereafter be changed to a Nonconforming building, Dwelling or Structure.

(f) If a Nonconforming building, Dwelling or Structure is damaged by fire, explosion, flood or Act of God by two-thirds (2/3) or more of its fair market value, a new building, Dwelling or Structure may be built on the Lot if built to meet all bulk standards and other requirements of the zoning district in which the building, Dwelling or Structure is located, provided however, that if such a damaged or destroyed building, Dwelling or Structure is located in the Floodplain it may only be rebuilt if (i) it meets the minimum bulk standards of the district and (ii) it meets all the Resource Protection Standards set forth in Article VI. If the Dwelling is located in the Floodway it can be rebuilt upon or within the existing foundation limits provided the lowest Floor elevation must be three (3) feet above the Base Flood elevation.

(g) If a Nonconforming building, Dwelling or Structure is damaged by fire, explosion, flood or Act of God to the extent of less than two-thirds (2/3) of its fair market value it may be reconstructed and used as before any such calamity. Such reconstruction shall be commenced within twelve (12) months of such calamity and shall be diligently prosecuted to its completion.

(h) In the event that there is a dispute as to the extent of the damage to the fair value of the building, Dwelling or Structure, these values shall be determined by the average of the estimates of damage and valuation based upon the cost of restoration as furnished by three (3) independent qualified contractors: one of whom shall be selected by the owner; one of whom shall be selected by the Board of Zoning Appeals; the third shall be selected by the first two mentioned contractors. Such estimates and valuations shall be independent of the value of the land on which such Nonconforming building, Dwelling or Structure is located.

#### 7.03. **Nonconforming Lots.**

(a) Any Lot of record, by deed or plat, as of the Controlling Date having less area than that required by the terms of this Zoning Ordinance, may be used as a building Lot.

(b) Lots of record as of the Controlling Date having a minimum area of one (1) acre or those Lots approved under the Residential A1 and A1P zoning previously repealed on April 9, 1987 shall all be considered conforming Lots in terms of their area. Where the subdivision plats show Front, Side, and Rear Yard lines, those lines shall regulate the development of those Lots rather than the standards set forth in Article IV of this Zoning Ordinance. Where no Yard lines are shown on the subdivision plat, then the standards set forth on Table 4.02 for the NC1 and NC2 One-Family Dwelling uses shall control and the minimum Front Yard set back shall be ninety (90) feet.

#### 7.04. **Nonconforming Uses.**

(a) Any Nonconforming use existing on the Controlling Date may be continued in the form of its existence on the Controlling Date.

(b) No Nonconforming use can be expanded or extended beyond the Lot or land upon which said use was located as of the Controlling Date.

(c) If any Nonconforming use is abandoned for a period of more than twelve (12) months, it may not be reestablished under any circumstance.

(d) No Nonconforming use can be changed to a different Nonconforming use.

(e) In the event the owner of any Lot wishes to expand the same type of Nonconforming use located upon any Lot, including but not limited to a recreational club use or radio or television broadcast tower use, then said owner shall apply to the City for all necessary and appropriate permits, in accordance with Article IX hereof, and the City Manager shall submit the permit application or applications to the Board of Zoning Appeals.

7.05. **Specific Limitations On The Term “Expand” And The Power And Authority Of The Board Of Zoning Appeals.** The term “expand” as used in this Article VIII shall never be interpreted by the Board of Zoning Appeals or by any applicant or owner (an “applicant”) of any Nonconforming building, Dwelling, Structure or use (herein a “nonconformity”) as vesting in any said applicant any absolute right of any nature whatsoever. By filing an application to expand a nonconformity, said applicant shall be deemed to have waived any such claim, and the applicant shall at all times be subject to the final determination of the Board of Zoning Appeals, and the criteria and limitations set forth herein on which the Board of Zoning Appeals may in its sole and absolute discretion approve or deny any application to expand any nonconformity. In addition, the Board of Zoning Appeals may condition its approval upon the applicant’s compliance with conditions reasonably necessary to screen adjacent Lots and the surrounding neighborhood from the nonconformity and to protect the public health, safety, and general welfare. If the Board of Zoning Appeals conditions its approval upon certain conditions precedent, the Board shall make a factual finding in writing that there is a reasonable relationship between the required conditions and the effects of the proposed expansion. The determination of the Board of Zoning Appeals to approve or deny any such application and any conditions to any approval to expand a nonconformity shall be final.

7.06. **Standards and Considerations to be Employed by Board of Zoning Appeals.** Whenever the City Manager shall refer a building permit application to the Board of Zoning Appeals for review and approval, the Board of Zoning Appeals which may, although it is not required to do so, the matter being within the sole and exclusive discretion of the Board of Zoning Appeals, grant or deny the application or applications depending upon the Board’s analysis of the application or applications, based upon the following standards and conditions and in accordance with the Rules, Regulations and Procedures of the Board of Zoning Appeals, as such may be adopted from time to time:

- (i) Size, topography and elevation of the Lot;
- (ii) Location of any building, Dwelling, Structure, parking area or other use on the Lot;
- (iii) The height, bulk and composition of any building, Dwelling, Structure, parking area or other use on the Lot;
- (iv) The proportionality of any building, Dwelling, Structure, parking area or other use to any adjacent building, Dwelling, Structure, parking area or other use on any adjoining Lots in the immediate vicinity;

(v) The visual impact on adjoining Lots or on Lots in the immediate vicinity;  
and

(vi) A determination that the altered, changed or expanded use is in the best interest of, and promotes the public health, safety, convenience, order, prosperity and general welfare of the City and of the specific area in which the use is located.

## **ARTICLE VIII. ADMINISTRATION.**

8.01. **Purpose.** The City has been and is organized and governed by the provision of the City Manager-Commission Charter in accord with TCA 6-18-101 through TCA 6-20-220. The Board of Commissioners shall have all of the powers and authority set forth therein and in all other Sections of the Tennessee Code relating to the powers and authorities of municipalities. In addition to the powers and authority of the Board of Commissioners, the City hereby confirms the existence of the Planning Commission and the Board of Zoning Appeals and the purpose of this Article shall be to set forth the powers and authority of said Planning Commission and Board of Zoning Appeals and the methods of enforcement of this Zoning Ordinance.

### 8.02. **Board Of Zoning Appeals.**

(a) **Established.** The Board of Zoning Appeals established in Title 2 of the Municipal Code shall be governed by the following provisions and have the full power and authority to hear appeals and to apply and construe the provisions of this Zoning Ordinance in all matters properly brought before it.

#### (b) **Powers of the Board.**

(i) **General Powers, Regulations.** The Board of Zoning Appeals shall have such duties, powers, and authority as are set forth in the various sections of this chapter. The Board of Zoning Appeals shall and is hereby authorized to adopt such rules and regulations as it may deem necessary and appropriate to carry into effect the provisions of this chapter. It shall hear and decide:

(1) any questions arising from a decision or determination made by City Building Official or the City Manager in the enforcement or application of this chapter or from the refusal, granting or revocation of any permit by the City Building Official or the City Manager under the provisions of this chapter brought before the Board of Zoning Appeals on appeal by any person deeming himself or herself to be adversely affected by such action;

(2) all applications for special exceptions and all matters referred to it upon which it is required to pass under this chapter. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, or modify the zoning requirements, decision, or determination of the City Building Official or City Manager as in its opinion ought to be made under the circumstances, and to that end shall have all powers of the officers from whom the appeal is taken, including authority to direct the issuance of a permit. Any order of the Board of Zoning Appeals directing or authorizing the issuance of such permit shall expire and become ineffective at the end of eighteen (18) months after its issuance;

(3) notwithstanding the foregoing, the Board of Zoning Appeals shall have no authority to grant any appeal, application for Special Exception or other matter upon which it is required to pass under this chapter if the City Building Official or City Manager shall certify to the Board of Zoning Appeals that the property owner seeking

relief is in default in its compliance with any prior orders of the Board of Zoning Appeals respecting the property in question, as evidenced by the minutes of the Board of Zoning Appeals and/or plans approved by the Board of Zoning Appeals and on file with the City, unless and until there shall have been full compliance with such orders.

(ii) Resolve conflicts. The Board of Zoning Appeals shall have the authority to resolve any conflicts amongst the drawings and charts attached hereto, or between such drawings and chart and the provisions of this chapter.

(iii) Special Exceptions. The Board of Zoning Appeals shall have power and authority to authorize the issuance of permits for special exceptions as established by this Zoning Ordinance.

(iv) Variances. The Board of Zoning Appeals shall have authority to approve variances from the strict application of this chapter, where, by reason of exceptional narrowness, shallowness, shape, exceptional topographic conditions or other extraordinary and exceptional situation or condition of a specific piece of property, the strict application of the zoning regulations as contained in this chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, the Board of Zoning Appeals may grant a variance from such strict application so as to relieve such difficulties or hardship; provided that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and zoning ordinance of the City.

8.03. **Enforcement And Stop Work Orders**. This Zoning Ordinance shall be enforced as follows:

(a) The City Manager shall enforce the provisions of this Zoning Ordinance. No permit shall be issued for the excavation, demolition, construction, or alteration of any building, Dwelling, Structure, Sign or use, where the plans, specifications, or evidence of intended use indicate that the building, Dwelling, Structure, Sign or use would not conform with the provisions of this Zoning Ordinance or any other City ordinance.

(b) Where any building, Dwelling, Structure, Sign or use is, or is proposed to be, erected, constructed, reconstructed, altered, maintained, or used, or any Lot or land is, or is proposed to be, used in violation of this Zoning Ordinance or any other City ordinance, the City Manager or any adjacent or neighboring property owner who would be damaged especially by such violation, may, through the City Attorney institute injunction, mandamus, abatement, or other action or proceeding to prevent, enjoin, abate, or remove any such violation. Where construction, excavation, demolition, grading or any other activity has begun on any building, Dwelling, Structure, Sign or use in violation of this Zoning Ordinance or any other City ordinance, the City Manager may, in addition to taking other authorized enforcement action, issue a stop work order pending the responsible party or parties bringing such construction, use or other activity into compliance with this Zoning Ordinance or any other City ordinance.

(c) The City Manager shall keep records of all permits and related information supplied by applicants in a manner that is available for public review. A separate file shall be maintained

for any work performed in the Floodplain with all documentation and certifications as required in this Zoning Ordinance or any other City ordinance.

(d) Any violation of this Zoning Ordinance or of any City ordinance requiring compliance shall be governed by TCA 13-7-208 and shall be punishable as a Class C misdemeanor in accord with the provisions of said statute.

8.04. **City Manager's Powers.** In addition to the other powers, authorities and duties set forth in this Zoning Ordinance and granted pursuant to TCA 6-21-108 and other relevant sections of state law, the City Manager has the authority to promulgate reasonable standards, regulations and requirements, not otherwise inconsistent with the provisions of this Zoning Ordinance, for the general welfare of the City with respect to the enforcement of the provisions of this Zoning Ordinance and the issuance, requirement and/or revocation of any and all permits, subject to the approval of the Board of Commissioners.

8.05. **Fees.** All fees for all applications made pursuant hereto, including but not limited to all fees for permits, Concept Plans, and zoning change applications shall be paid to the City at the time said application is submitted in the amounts set forth in the Fee Resolution as same may from time to time be amended or increased. No permit shall be issued unless the applicant therefor has complied fully with all applicable provisions of the Fee Resolution.

8.06. **Expiration Of Permits.** Unless otherwise specified herein or in the rules, regulations and procedures of any City official, board, agency or commission, all permits, certificates, variances, special exceptions, or approvals of any other nature whatsoever granted pursuant to any provision of this Zoning Ordinance shall, if not acted upon, expire within eighteen (18) months from the date of such grant. Transportation permits issued pursuant to the Fee Resolution shall expire forty-five (45) days following issuance.

## ARTICLE IX. PROCEDURES.

9.01. **Purpose.** The purpose of this Article is to establish the procedural requirements for obtaining a zoning certificate, meeting Concept Plan requirements, obtaining approvals of both residential and nonresidential uses, applying for Comprehensive Plan and Comprehensive Plan Map amendment or changes and Zoning Map and zoning text changes or amendments, and obtaining all permits required by this Zoning Ordinance or any other City ordinance.

9.02. **Certificate And Permit Requirements.** No construction, excavation, demolition, grading or any other activity or development governed by this Zoning Ordinance or any other City ordinance or the Subdivision Regulations of the City may be commenced without a permit. All required permits shall be obtained from the City Manager on forms prepared by the City Manager and with the necessary information as required by those permit application forms. The City Manager shall review all applications pursuant to which a permit is requested and either issue a permit or, if the application or the proposed use for which the permit is requested does not meet the requirements of this Zoning Ordinance or the Subdivision Regulations of the City or other relevant City ordinances, reject said application and state the reasons for such rejection. All certificates required by this Zoning Ordinance or any other City ordinance shall be obtained from the City Manager before a permit may be issued to any person or entity for the commencement of construction, excavation, demolition, grading or any other activity in the City requiring a permit.

9.03. **Procedure For Change Or Amendment Of City's Comprehensive Plan, Comprehensive Plan Map, Zoning Map And Zoning Ordinance.** At any regularly scheduled meeting, upon application or otherwise, the Planning Commission may amend or change the City's Comprehensive Plan, Comprehensive Plan Map or Subdivision Regulations. No public hearing shall be required for an amendment or change of the City's Comprehensive Plan or Comprehensive Plan Map by the Planning Commission, however, in amending or changing the Subdivision Regulations the Planning Commission shall comply with the provisions of TCA 13-4-303, which does require a public hearing. The Board of Commissioners may change, amend or supplement any text of this Zoning Ordinance, Zoning Map, district boundary, or classification of property established by this Zoning Ordinance, or amendments thereof, by following the procedures set forth herein below:

(a) **Applications.**

(i) Applications for the change of any text, Zoning Map, district boundaries or classification of property, as shown on the Zoning Map, shall be submitted to the City Manager, who shall distribute such applications to the Planning Commission and the Board of Commissioners. The City Manager shall administer the required public notice procedures.

(ii) Applications shall be on such forms, and shall be accompanied by such data and information, as may be prescribed for that purpose by the Planning Commission, so as to assure the fullest practicable presentation of facts for the permanent record.

(b) **Planning Commission Public Hearing.** Before submitting its recommendations on a proposed amendment to the Board of Commissioners, the Planning Commission shall hold at least one (1) public hearing thereon. Notice of the time and place of the public hearing shall be given at least ten (10) days prior to that date, and the notice shall be given in one (1) publication in a newspaper of general circulation in the City. If the application is for a Zoning Map amendment affecting one particular piece of

property, notice of each hearing shall be given to all adjacent property owners (taken from the most recent tax rolls) by placing the notice in the United States mail at least ten (10) days before the date of the hearing. Also, a Sign, in a form required by the City Manager, providing notice of the time, place and subject of the proposed amendment shall be posted on the property by the City in a location easily visible from the road at least ten (10) days prior to the public hearing.

(c) **Planning Commission Recommendation.** The Planning Commission shall recommend approval or disapproval of the proposed amendment and shall report its recommendations to the Board of Commissioners.

(d) **Board of Commissioners Public Hearing.** Upon receiving the Planning Commission's recommendations on a proposed amendment, but before finally adopting or rejecting any ordinance concerning any such amendment, the Board of Commissioners shall, in accord with its procedures for the adoption of ordinances, hold a public hearing. Notice of the time and place of the public hearing shall be given at least fifteen (15) days prior to that date and the notice shall be given in one (1) publication in a newspaper of general circulation in the City. If a rezoning of property is involved, notices shall be sent by the United States mail and a Sign, in a form required by the City Manager pursuant to his authority set forth in Section 7.04 hereof, providing notice of the time, place and subject of the proposed amendment shall be posted on the property by the City at least fifteen (15) days prior to the public hearing.

(e) **Zoning Ordinance Text Amendments.** The approval of Zoning Ordinance text amendments by the Board of Commissioners shall be preceded by a finding that a change is needed for one (1) of the following reasons:

(i) The use desired is not covered in the text of this Zoning Ordinance but is acceptable because:

(1) The use proposed is in accordance with the purpose and intent of the zoning district; and,

(2) There are similar uses in the district; and

(3) The intensity of use proposed is consistent with other uses in the district.

(ii) New conditions have arisen that have not been addressed in this Zoning Ordinance. These new conditions must be one of the following:

(1) The City's Comprehensive Plan has been amended, and the Zoning Ordinance needs to be brought into conformity with the Comprehensive Plan.

(2) Changing conditions require new forms of development or new procedures to meet these changing needs.

(3) New methods of development or the provision of infrastructure makes it necessary to alter the Zoning Ordinance to meet these new conditions.

(4) Changing governmental finances requires amending the text of this Zoning Ordinance to be in keeping with the needs of government to provide and afford new public services.

(iii) After experience with the Zoning Ordinance, adjustments are needed, in the sole and exclusive jurisdiction of the Board of Commissioners pursuant to their legislative authority, to achieve the desired objectives of the City.

(f) **Zoning Map Amendments.** The approval of Zoning Map amendments by the Board of Commissioners shall be preceded by a finding that a change is needed for one (1) of the following reasons:

(i) The Comprehensive Plan has been amended and the Zoning Map needs to be brought into conformance with the revised plan; or

(ii) A mistake was made on the original Zoning Map; or

(iii) Conditions have changed making the location sought to be rezoned favorable for the proposed zoning change; or

(iv) After experience with the Zoning Map, adjustments are needed, in the sole and exclusive jurisdiction of the Board of Commissioners pursuant to their legislative authority, to achieve the desired objectives of the City.

(g) **Decisions.** After holding the public hearing, the Board of Commissioners shall consider the recommendations of the Planning Commission and vote to adopt or reject the proposed amendment. If adopted, the ordinance concerning the proposed amendment shall become effective on the date said ordinance receives a favorable vote of a majority of the members of the Board of Commissioners.

(h) **Failure to Notify.** The intention of this Section 9.03 is to provide due notice of proposed Zoning Map changes to all persons who may be interested in or affected by the changes. However, failure to notify property owners by United States mail due to an error in records or any other circumstance shall not invalidate any recommendation of the Planning Commission or action of the Board of Commissioners provided that such failure was not intentional.

(i) **Repeat Applications.** Whenever any application for an amendment or change of the Zoning Map has been denied by the Board of Commissioners or withdrawn, no new petition covering the same property, the same property plus any additional property, or a portion of the same property, can be filed with or considered by the Board of Commissioners until one (1) year has elapsed from the date of the filing of a previous petition.

## ARTICLE X. DEFINITIONS.

10.01. **Purpose.** The purpose of this Article is to define words, terms, and phrases contained within this Zoning Ordinance.

10.02. **Word Usage.** In the interpretation of this Zoning Ordinance, the provisions and rules of this Section 10.02 shall be observed and applied, except when the context clearly requires otherwise:

(a) Words used or defined in one tense or form shall include other tenses or derivative forms.

(b) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.

(c) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

(d) The word “shall” is mandatory.

(e) The word “may” is permissive.

(f) The word “person” includes individuals, firms, corporations, associations, trusts, and any other similar entities.

(g) All other words shall have the meanings applied to them in common parlance as formalized by the Merriam Webster dictionaries, and when in conflict with common parlance, the dictionary definitions shall control.

10.03. **Definitions.** The following words and phrases are defined terms and are capitalized throughout this Zoning Ordinance:

**Accessory Apartment:** An independent dwelling with separate cooking, eating, sanitation and sleeping facilities that is added to an existing One-Family, more commonly known as a “mother in-law apartment” or a “granny flat”.

**Accessory Use(s):** A use or building customarily incidental and accessory to the principal use of a Lot, building, principal Dwelling or Structure and located upon the same Lot as the principal use and not repetitious thereof. For the purposes of this Zoning Ordinance, Accessory Uses shall include, but shall not be limited to, athletic courts, tennis courts, Swimming Pools, pool houses, Guest Houses and Caretaker Cottages, Accessory Apartments, Stables, barns, and tool or utility sheds.

**Alternative tower structure:** Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Animal Unit(s):** A measure controlling the number of animals per acre. The animal unit accounts for the carrying capacity of one acre of land and is related to the amount of feed various species consume, and the amount of waste they produce. The following table indicates the number of common farm animals which comprise a single animal unit.

<u>Type of Livestock</u>	<u>Number of Animals</u> <u>Per Animal Unit</u>
Horses or ponies	One horse or pony for every two and one-half acres.
Cows or calves	2
Hogs	4
Sheep or lambs	7
Other Poultry	50

**Antenna(s):** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Backhaul network:** The lines that connect a provider’s towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year (commonly called the 100 year flood).

**Basement:** “Basement” means that certain portion of a Dwelling being more than fifty percent (50%) underground and at least forty-two inches (42”) below the finished grade at its most shallow point, as shall be confirmed and further shown on detailed elevations, finished grade and construction plans concerning same. Any living space within a Dwelling not satisfying this criteria constituting a Basement shall be Floor Area and included in the Floor Area Ratio calculation.

**Board of Commissioners:** The Board of Commissioners of the City.

**Board of Zoning Appeals:** The Board of Zoning Appeals of the City.

**Building:** “Building” means any Structure that encloses a space that may be used for sheltering any use and/or occupancy thereof.

**Building Cover:** The portion of a Lot permitted to be covered by primary Dwellings, Structures, Guest Houses/Caretaker Cottages, and Accessory Uses.

**Building Cover Ratio:** “Building Cover Ratio” is a measure of the intensity of the land use, which is determined by dividing the total horizontal area of all surfaces under roof, including but not limited to covered porches, overhangs, entryways, patios, and pools on a Lot, by the Lot Area.

**Building Envelope:** Building Envelope is the horizontal area of a Lot upon which Buildings and structures may be constructed.

**Building Height:** The vertical height measured from the grade plane to the average height of the highest roof surface of the Building. For purposes of this definition, “grade plane” is the average of the elevations of the grade at each end of the front of the Building.

**Building Setback Line:** The line or lines designating the area within which buildings may be erected.

**City Attorney:** The person appointed by the Board of Commissioners to render legal advice and services to the City in accord with TCA 6-21-201 and 202.

**City Engineer:** The person appointed by the Board of Commissioners to provide the City with engineering services.

**City Manager:** The person appointed by the Board of Commissioners to administrate the daily operations of the City.

**Comprehensive Plan:** That certain plan known as “Comprehensive Plan for the City of Forest Hills, Tennessee” adopted on January 21, 2010 by the Planning Commission, as from time to time amended.

**Concept Plan(s):** A plan meeting all the specifications and requirements of the Subdivision Regulations.

**Controlling Date:** January 20, 2012.

**Diameter Breast Height (DBH):** The diameter in inches of a tree measured at four and one-half feet above the existing grade.

**Domesticated hens:** Female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

**Dwelling:** Any Building that may be occupied in whole or in part as the home or residence, including any Guest House, Caretaker Cottage, Accessory Apartment, or other accessory Structures appurtenant thereto, for habitation by one or more persons comprising a “Family” as defined below.

**FAA:** The Federal Aviation Administration.

**FCC:** The Federal Communications Commission.

- Family:**
- (a) One individual;
  - (b) Two or more persons related by blood, marriage, adoption, foster care or law;
  - (c) A group of persons consisting of (i) one individual or (ii) any number of persons related by blood, marriage, adoption, foster care or law, such occupant(s) being referred to as the "primary occupant(s)" for the purposes of this section, plus (iii) no more than one person who is not related to a primary occupant, all of whom occupy the Dwelling and function as a single housekeeping unit with common kitchen facilities.

Providing unrestricted access to the entire dwelling to all occupants; sharing food and other necessities; and sharing household expenses and responsibilities are indications that a group of persons is living as a single housekeeping unit. Servants, housekeepers, nannies, caretakers and guardians are not considered to be related to a primary occupant.

**Fee Resolution:** A resolution, adopted and amended from time to time, by the Board of Commissioners setting the fees of the City.

**Fence:** Any self-standing structure, partition or wall erected to enclose a piece of land to provide privacy, security and/or sound absorption or reflection.

**Fixture, Fully Shielded:** An outdoor lighting fixture shielded in such a manner that in its installed position, no light output is emitted at or above the horizontal (ninety (90) degrees), and no more than ten (10) percent of the rated lamp output is emitted at or above eighty (80) degrees.

**Fixture, Partially Shielded:** An outdoor lighting fixture shielded in such a manner that in its installed position, no more than two and one half (2.5) percent of the rated lamp output is emitted at or above the horizontal (ninety (90) degrees) and no more than ten (10) percent is emitted at or above eighty (80) degrees.

**Floodplain:** The land which has been or may be hereafter covered by flood water during a flood having a one (1) percent chance of being equaled or exceeded in any given year (commonly called the 100 year flood). The floodplain is identified on either the official map issued by the Federal Emergency Management Agency or any floodplain study performed for the City by a qualified licensed engineer. The most recent and detailed maps shall be used to identify the floodplain and floodplain elevations.

**Floodway:** The channel of a water course and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floor:** The top surface of an enclosed area in a building (including basement), i.e. top of a slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a Garage used solely for parking vehicles.

**Floor Area:** Floor Area is the total of the gross horizontal areas of all Floors, including attics and cellars that may be used for habitation in compliance with the City's Building Code. Specifically excluded from the Floor Area are: (i) Basements, as specifically defined herein, and (ii) carports, porches, patios, balconies, and decks all of which must not be enclosed nor under roof to be excluded from the Floor Area and Floor Area Ratio calculation. See also Section 4.02(1).

**Floor Area Ratio:** Floor Area Ratio is a measure of the intensity derived by dividing the total Floor Area by the gross Lot Area. See also Section 4.02(1).

**Garage(s):** Either an Accessory Building or a space attached to a principal Dwelling or a principal Structure permitted in any district and providing for the storage of motor vehicles, and in which no business occupation or service for profit is in any way conducted.

**Geotechnical Study:** A report or study prepared and certified by a geotechnical engineer licensed to practice in the State of Tennessee.

**Guest House(s)/Caretaker Cottage(s):** A Dwelling unit, containing a kitchen, located on the same Lot as, and secondary to, a principal Dwelling.

**Home Occupation:** Business activities are generally prohibited, however, those occupations which can be conducted entirely within a principal Dwelling, for which no inventory is maintained upon the premises for sale or resale, no person is employed other than a member of the immediate Family residing on the premises, no mechanical or construction equipment is located on the exterior of the Dwelling or premises, no vehicular or pedestrian traffic generated within the neighborhood or area of the home in excess of a normal household traffic, no alteration of the residential character of the property, and no sign or display is located on the exterior of the Dwelling or premises indicating that the Dwelling is being utilized for a home occupation.

**Impervious Surface:** *Impervious Surface.* Impervious Surface is any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, roofs of Buildings or Structures, parking and driveway areas, sidewalks, walls, patios, pools decks, pools, and graveled areas. Permeable pavement systems, including pervious concrete, modular block systems, porous asphalt, or grass and gravel pavers, are considered Impervious Surfaces; however, each one square foot of properly installed permeable pavement system will be counted as 0.67 square foot of Impervious Surface. Permeable systems must reduce runoff volume by not less than 45% and must follow the design criteria as defined in Metropolitan Nashville and Davidson County's green infrastructure practices manual GIP-03. See also Section 4.02(j).

**Impervious Surface Ratio.** Impervious Surface Ratio (also referred to herein as "ISR") is a measure of the intensity of the land use, which is determined by dividing the total area of all Impervious Surfaces on a Lot, including Building Cover, by the Lot area. See also Section 4.02(k).

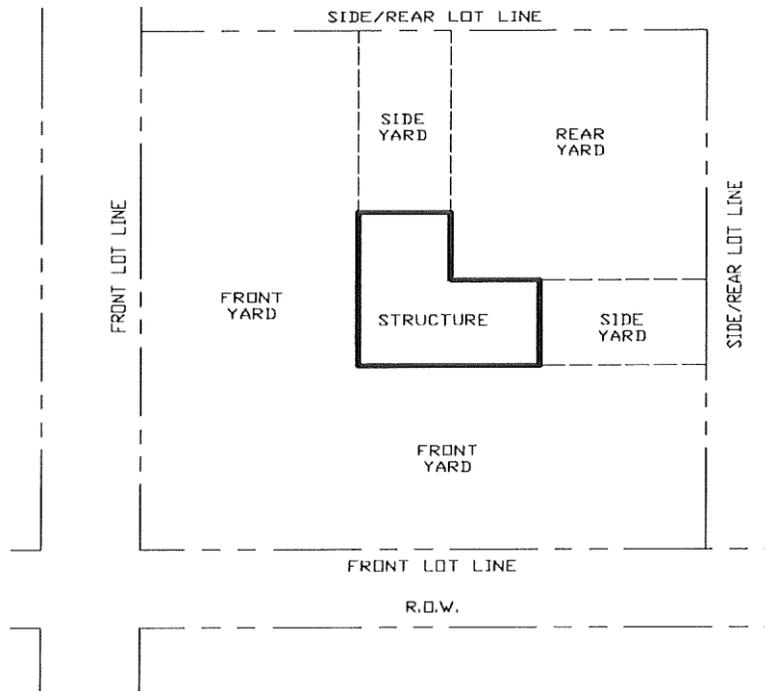
**Landscaping Plan:** A plan prepared and certified by a registered architect, landscape architect, or civil engineer drawn to a scale of not less than 1" = 20". Each Landscaping Plan shall show the entire Lot with as-built and proposed landscaping for every yard, except those areas occupied by utilities, driveways, paved walks, patios, pools, athletic courts, walls, and other Structures. Foundation plantings are recommended and should be appropriate for the design of the related Structure(s) and size appropriate, in keeping with the scale of the related Structure(s).

**Lot(s):** A tract, plot, or portion of land within the City intended as a unit for the purpose of land ownership, transfer of ownership, subdivision or building development.

**Lot Area:** "Lot area" means the horizontal area included within the boundary lines of a Lot, typically stated in terms of acreage or square feet. See also Section 4.02(a)

**Lot Cover:** The portion of a Lot permitted to be covered by Impervious Surfaces, including, but not limited to, the footprints of all Structures collectively, driveways, sidewalks, and any area of concrete or asphalt. This definition encompasses the definition for "Building Cover."

**Lot(s), Corner:** A Lot situated at the junction of two (2) or more streets. Both Yards between the street Right-of-Way and building shall be considered Front Yards. All Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, as indicated in the illustration immediately below.



**Lot Width:** “Lot Width” means the horizontal distance between side lot lines measured at the minimum required front yard setback line. See also Section 4.02(b).

**Major Street Plan:** The plan of streets adopted by the Planning Commission pursuant to TCA 13-4-302, identifying the locations of all scenic arterial, arterial, and residential collector streets (which are also known as major streets) in the City, of record in Book 8250, Page 62, Register’s Office of Davidson County, Tennessee, as amended.

**Municipal Code:** The ordinances of the City of a general, continuing, and permanent application or of a penal nature, as codified and revised in Titles 1 to 20, both inclusive, as ordained and adopted from time to time by the Board of Commissioners.

**Nonconforming:** A nonconforming building, Dwelling or Structure, or the use of a building, Dwelling, Structure or Lot as governed by the requirements of Article VIII of this Zoning Ordinance.

**Open Space(s):** Land that is to be used primarily for resource protection, agriculture, recreational purposes or otherwise left undisturbed and specifically excluding road Rights-of-Way.

**Place(s) of Worship:** Community facilities, such as a church, synagogue, chapel, sanctuary or cathedral, which are used for the collective or individual involvement with a religious activity, such as rites, rituals, ceremonies, prayers and discussions and, in addition, community facilities which are used for activities typically performed by nursery schools, kindergartens and “Mothers Day Out” programs provided such additional uses are in conjunction with places of worship.

**Planning Commission:** The Municipal Planning Commission of the City.

**Preexisting Towers and Preexisting Antennas:** Any Tower or Antenna for which a building permit has been properly issued prior to the Controlling Date.

**Public or Private School(s):** Community facilities which are used for activities typically performed by public, parochial or private primary and secondary schools and, in addition, community facilities which are used for activities typically performed by public, parochial and private day schools, nursery schools and kindergartens provided such additional uses are in conjunction with primary or secondary schools.

**Residential Use:** The use of a Dwelling by a Family for private, residential purposes and purposes incidental and necessary thereto, excluding all other uses except for Home Occupation or as specifically permitted in a particular zoning district.

**Right(s)-of-Way:** A strip of land occupied or intended to be occupied by a public facility, including but not limited to a street, sidewalk, crosswalk, electric or communication transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for other public purposes. The usage of the term “Right-of-Way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the Lots or parcels adjoining such right-of-way and not included within the dimensions or area of such Lots or parcels. Rights-of-Way are public owned areas of land not to be confused with or interpreted as easements.

**Roof Pitch:** The roof pitch of a Building or Structure is its slope as determined by its vertical rise divided by its horizontal span or “run.” Roof pitch is expressed with the rise first and run second. For example, a 16:12 roof pitch is 16 inches of rise over 12 inches of run.

**Sign(s):** Any object, device, display, Structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, religious group, product, service, event, location or public hearing by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

**Sign(s), Construction:** A sign whose message must be limited to the name and use of a building being constructed, and which may include the names of architects, engineers, contractors, and other persons involved with a construction project.

**Sign(s), Directional:** A Sign indicating the direction or location of some facility or service incidental to a use and not advertising the use in any way. Such Signs shall include vehicular entrance and exit Signs, vehicular flow Signs, and instructional Signs.

**Sign(s), Ground:** A self-supporting Sign resting on or supported by means of poles, standards, or any other type of base on the ground and not supported by or attached to a building.

**Sign(s), Open House:** A temporary Sign advertising the real estate upon which the sign is located as being open for inspection.

**Sign(s), Permanent:** Permanent Signs are those signs which may be displayed for a longer period of time than Temporary Signs. Permanent Signs do not include Signs or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and which are intended to be displayed for a short

period of time or which are otherwise considered to be “Temporary Signs.” Permanent Signs also do not include signs mounted on a frame and/or chassis which are designed for easy and repeated relocation.

**Sign(s), Political:** Signs which support candidates for public office or measures on an election ballot.

**Sign(s), Real Estate:** A Temporary Sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

**Sign(s), Security:** A Sign intended to warn off trespassers upon the property which the Sign is located.

**Sign(s), Special Event:** See definition of “Sign, Temporary.”

**Sign(s), Temporary:** A Sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and intended to be displayed for a short period of time as specified under the requirements of this Zoning Ordinance.

**Slippage Soils:** Soils where the parent material is Colluvium, e.g. Delrose, as classified by The Natural Resources Conservation Service.

**Slope(s):** The relationship of the change in the vertical measurement to the change in the horizontal measurement, and usually written as a ratio or a percentage.

**Slope(s), Steep:** Areas that have a finished grade of 20% or greater. No land area shall be considered a Steep Slope unless the Steep Slope area has at least a ten (10) foot vertical drop and has a minimum area of five thousand (5,000) square feet.

**Stable:** A Structure for horses or ponies having stalls and provisions for interior feeding.

**Storm Water Management Ordinance:** Title 14, Chapter 5 of the Municipal Code.

**Structure(s):** Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground. Structures include, but are not limited to, athletic courts, tennis courts, swimming pools, pool houses, and stables.

**Surface Waters:** Natural or man-made lakes, ponds, streams, creeks, or other watercourses that discretely convey flowing water, as opposed to sheet-flow.

**Swimming Pool(s):** Any outdoor water pool with a depth of at least twenty-four (24) inches that is designed, constructed, used or maintained for swimming purposes on any Lot.

**Temporary Building:** Any building or Structure which is not intended to have a permanent location on the ground, including but not limited to construction trailers, manufactured or modular buildings, mobile homes, or portable sanitation facilities.

**Tower(s):** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Water Quality Buffer Area:** An area of materially undisturbed vegetation, including trees, shrubs and herbaceous vegetation, either original or re-established, bordering on Floodways and Floodplains, Surface Waters, and Wet Weather Conveyances which provides (i) a naturally vegetated and pervious buffer between a water feature and clearing, grading, filling, paving and building activities, and (ii) protection of stream quality and resource management benefits.

**Wet Weather Conveyances:** Shall have the meaning given in the Tennessee Comprehensive Rules & Regulations 1200-04-03-.04.

**Yard(s):** The area of any lot where building is restricted by the Zoning Code, including front and side yards which will remain unobstructed by buildings, and rear yard which will remain unobstructed by the principal building.

**Yard(s), Front:** A Yard extending the full width of the Lot and between the front Lot line and the nearest exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards adjacent to a street shall be considered Front Yards, all as indicated in Figure 9.03.

**Yard(s), Rear:** A Yard extending the full width of the Lot and between the rear Lot line and each rear-facing exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, all as indicated in Figure 9.03.

**Yard(s), Side:** A Yard extending between the side Lot line and the nearest exterior wall of the principal building on the Lot. In the case of Corner Lots, all Yards that are not adjacent to a street shall be considered either Side Yards or Rear Yards, all as indicated in Figure 9.03.

## ARTICLE XI. VALIDITY AND EFFECTIVE DATE.

11.01. **Validity.** It is hereby declared to be the intention of the citizens of the City that if any sections, paragraphs, sentences, or words of this Zoning Ordinance as amended are declared unconstitutional or in excess of the powers vested in the Board of Commissioners by the valid judgment or decrees of any court of competent jurisdiction, such unconstitutionality or exercise of excess powers shall not affect the rest of this Zoning Ordinance as amended.

11.02. **Statement Of Compliance.** The Commissioners of the City of Forest Hills hereby certify that Ordinance Number 2011-196 has heretofore been submitted to and approved by the Municipal Planning Commission of the City of Forest Hills, and subsequently a public hearing thereon has been held after at least 15 days notice of the time and place of said meeting and public hearing was published in a newspaper of general circulation in the City of Forest Hills, as required by law, and does hereby declare this ordinance duly adopted after second reading in accordance with said provision this 5th day of January, 2012.

11.03. **Codification.** This Zoning Ordinance shall be codified in Title 14, Chapter 2 of the Municipal Code and made a part thereof.