CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership. That the commissioners of the City of Forest Hills do hereby create and establish a municipal planning commission, the same to be known as the "Municipal Planning Commission of the City of Forest Hills." Such commission shall consist of ten (10) members, three (3) of the said ten (10) members shall be the mayor and the two (2) commissioners of the City of Forest Hills, and, the other seven (7) of said ten (10) members shall be appointed by the mayor of the City of Forest Hills, who shall make his appointment in writing and shall file said written appointment with the city recorder of the City of Forest Hills. The terms of the members of the City of Forest Hills Planning Commission shall be as follows:

1. The mayor shall serve during such period of time as he is mayor of the City of Forest Hills.
2. The other two (2) commissioners shall serve during their term as commissioner of the City of Forest Hills.
3. The seven (7) members to be appointed by the mayor shall serve for a term of four (4) years.
4. Any vacancy in any appointed membership shall be filled for the unexpired term by the mayor, who shall also have authority to remove any appointed member, at his pleasure, or accept the resignation of any such appointed member.
5. No member of the Municipal Planning Commission of the City of Forest Hills shall receive any compensation for his services as such. (Ord. #2, May 1957, modified)
14-102. Organization. The commission shall select its chairman, vice chairman and secretary from among its appointed members. The terms of chairman, vice chairman and secretary shall be one (1) year with eligibility for re-election. The commission shall adopt rules for its transactions, findings and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work, but, shall make no expenditure of money and incur no obligation for the payment of money, without specific authorization from the mayor, and/or commissioners of the City of Forest Hills. (Ord. #2, May 1957)

14-103. Duty to adopt plan. It shall be the function and duty of the commission to make and adopt an official general plan for the physical development of the municipality. The plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the commission's recommendations for the said physical development, and may include, amongst other things, a zoning plan for the regulation of the height, area, bulk, location and use of private structures and premises and of population density;

The commission may from time to time amend, extend or add to the plan or carry any part or subject matter into greater detail.

The commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole plan progresses, may from time to time adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matters of the plan. The adoption of the plan or any part, amendment or addition shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the adopted plan or part thereof and descriptive matter by the identifying signature of the secretary of the commission, and a copy of the plan or part thereof shall be certified to the chief legislative body.

In the preparation of the plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and future growth of the municipality and its environs. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development. (Ord. #2, May 1957)
CHAPTER 2

ZONING ORDINANCE

SECTION
14-201. Land use to be governed by zoning ordinance.

14-201. **Land use to be governed by zoning ordinance.**¹ Land use within the City of Forest Hills shall be governed by Ordinance #2013-210, titled "Zoning Ordinance, Forest Hills, Tennessee," and any amendments thereto. (as amended by Ord. #2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

¹§ 14-202 "Board of zoning appeals" was deleted by Ord. #2011-196 and incorporated into the zoning ordinance.

The original numbering format of Ord. #2013-210 was preserved to simplify addition of future amendments.
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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 Tennessee Code Annotated, § 13-7-103, 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 subsections (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. (Ord. #2011-196, Jan. 2012, as replaced by Ord. #2013-210, Dec. 2013)

**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:

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Lot Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estates 1A (E1A)</td>
<td>Six (6) acres</td>
</tr>
<tr>
<td>Estates A (EA)</td>
<td>Three (3) acres</td>
</tr>
<tr>
<td>Estates B (EB)</td>
<td>Two (2) acres</td>
</tr>
<tr>
<td>Estates C (EC)</td>
<td>One and one half (1.5) acres</td>
</tr>
<tr>
<td>Residential A (RA)</td>
<td>One and one quarter (1.25) acres</td>
</tr>
<tr>
<td>District</td>
<td>Minimum Lot Size</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Neighborhood Conservation (NC1) and (NC2)</td>
<td>One (1) acre</td>
</tr>
<tr>
<td>Open Space Subdivision</td>
<td>One (1) acre</td>
</tr>
<tr>
<td>Historic Commercial (HC)</td>
<td>One and one quarter (1.25) acres</td>
</tr>
<tr>
<td>Country Club (CC)</td>
<td>One hundred sixty (160) acres</td>
</tr>
<tr>
<td>Institutional (IN)</td>
<td>Places of worship: ten (10) acres</td>
</tr>
<tr>
<td></td>
<td>K-6 schools: twenty (20) acres</td>
</tr>
<tr>
<td></td>
<td>7-12 schools: fifty (50) acres</td>
</tr>
<tr>
<td>Municipal Floodplain Protection Overlay</td>
<td>N/A</td>
</tr>
<tr>
<td>Hillside Protection Overlay</td>
<td>N/A</td>
</tr>
</tbody>
</table>

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 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 (six (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 (three (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 (two (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 (one and one half (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 (one and one quarter (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 (one (1) acre). These districts are intended to preserve existing neighborhoods that were developed as one (1) 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 feet (100') 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 percent (5%) of the total lot area, with at least seventy percent (70%) of the lot in landscaping.

(4) The lot must have a minimum frontage along any arterial street of three hundred feet (300') 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 (2) pump structures (six (6) 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 eighteen (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 § 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) 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 two hundred feet (200') 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 two-thirds (2/3) majority 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 two-thirds (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 ten (10) acres. The minimum lot size within each open space subdivision shall be one (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 feet (35').

(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 two-thirds (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 (2) 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 § 14-303(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 eight hundred feet (800') 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 eight hundred feet (800') or contains steep slopes, only that portion of the lot encumbered by steep slopes or existing over eight hundred feet (800') 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 stormwater management ordinance, unless exempted by the terms herein.

(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 twenty-five percent (25%) expansion in total impervious surface area of one thousand five hundred (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 one thousand five hundred (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 addition, the building envelope shall be at least fifty feet (50') away from any areas classified as steep slopes.

(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, is 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. (as added by Ord. #2011-106, Jan. 2012, as replaced by Ord. #2013-210, Dec. 2013, and amended by Ord. #2014-218, Dec. 2014)

**ARTICLE III. USE REGULATIONS**

3.01. **General provisions.** No building, dwelling, lot, structure, or property shall be used, developed, designed or constructed unless it conforms to the permitted uses specified in this article.

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>
<thead>
<tr>
<th>USE</th>
<th>E1A</th>
<th>EA</th>
<th>EB</th>
<th>EC</th>
<th>RA</th>
<th>NC1/NC2</th>
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<tr>
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<td>P</td>
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<tr>
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<td>N</td>
<td>P</td>
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<td>N</td>
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<td>C6</td>
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<td>C9</td>
<td>C9</td>
<td>C9</td>
<td>C9</td>
<td>C9</td>
<td>C9</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

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

1See § 2.03(c) for conditions.
2See § 2.03(c) for conditions.
3No livestock (other than horses or ponies) shall be permitted on lots of less than fifteen (15) acres. On lots of fifteen (15) acres or greater, livestock are permitted provided the animal unit per acre requirements, as defined in § 11.03, are never exceeded. For all lots under fifteen (15) acres, one (1) horse or pony shall be permitted for every two and one-half (2.5) acres. Domesticated hens are permitted all residential districts in accordance with title 10, chapter 1 of the municipal code.
4See § 3.04 and Article IV for conditions.
5See § 4.10 for conditions.
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>
<thead>
<tr>
<th>Temporary Use or Structure</th>
<th>Allowable Duration (per site)</th>
<th>Permit Required</th>
<th>Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seasonal agricultural sales</td>
<td>25 non-consecutive days per calendar year</td>
<td>Yes</td>
<td>§ 3.03(d)(i) below</td>
</tr>
<tr>
<td>Special events</td>
<td>30 consecutive days per calendar year</td>
<td>Yes</td>
<td>§ 3.03(d)(ii) below</td>
</tr>
<tr>
<td>Construction trailer and construction dumpster</td>
<td>Until issuance of a certificate of occupancy</td>
<td>No</td>
<td>§ 3.03(d)(iii) below</td>
</tr>
<tr>
<td>Temporary storage or portable container</td>
<td>30 days</td>
<td>Yes</td>
<td>See § 13-301, et seq. of the municipal code</td>
</tr>
</tbody>
</table>

(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 ($500,000.00) 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 feet (300') 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 two hundred feet (200') 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 Tennessee Code Annotated, § 53-8-117(a)(2)) provided that such vendors comply with all signage and labeling requirements pursuant to Tennessee Code Annotated, § 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 ($500,000.00) 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 low owners whose property adjoins the subject lot and to all lot owners within three hundred feet (300') 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 two hundred feet (200') 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 dropline of existing trees;

(4) Not be located within a floodplain, floodway, or otherwise obstruct drainage flow; and

(5) Not be placed within five feet (5') 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 [Tennessee Code Annotated](https://publiclawaccess.tn.gov/tcrs/documents/Public_Law/2015/TN015007.pdf), § 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](https://www.international-codes.com/irc), 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 inches (24") 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 fifteen (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.

<table>
<thead>
<tr>
<th>Maximum Number of Domesticated Hens</th>
<th>Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>&lt;3</td>
</tr>
<tr>
<td>6</td>
<td>&gt;3</td>
</tr>
</tbody>
</table>

(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 feet (25') away from any residential structure (other than the permit holder's residence) located in a residential zone district and ten feet (10') 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 (1) 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 collection 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 feet (50') of its existing location.
   2) After the tower is rebuilt to accommodate collocation, only one (1) 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 unplanted 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 Blackhaul 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 (1) 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 feet (200’) 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 (6') 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 feet (25') 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 three hundred (300) square feet of gross floor area or be more than twelve feet (12') 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 (2) or more users of a single tower, then this provision

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 the requirements of Table 4.02. 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.

Table 4.02
Residential Bulk Standards

<table>
<thead>
<tr>
<th>District</th>
<th>Min. Lot Area (acres)</th>
<th>Min. Lot Width (ft)</th>
<th>Min. Street Width (ft)</th>
<th>Front Yard setback (ft)</th>
<th>Side Yard setback (ft)</th>
<th>Rear Yard setback (ft)</th>
<th>Max. Height (ft)</th>
<th>Max. Bldg. Cover</th>
<th>ISR</th>
</tr>
</thead>
<tbody>
<tr>
<td>EIA</td>
<td>6</td>
<td>250</td>
<td>125</td>
<td>150</td>
<td>60</td>
<td>100</td>
<td>35</td>
<td>.05</td>
<td>.14</td>
</tr>
<tr>
<td>EA</td>
<td>3</td>
<td>250</td>
<td>125</td>
<td>150</td>
<td>60</td>
<td>100</td>
<td>35</td>
<td>.06</td>
<td>.16</td>
</tr>
<tr>
<td>EB</td>
<td>2</td>
<td>200</td>
<td>100</td>
<td>125</td>
<td>50</td>
<td>75</td>
<td>35</td>
<td>.08</td>
<td>.18</td>
</tr>
<tr>
<td>EC</td>
<td>1.5</td>
<td>200</td>
<td>100</td>
<td>90</td>
<td>45</td>
<td>50</td>
<td>30</td>
<td>.09</td>
<td>.20</td>
</tr>
<tr>
<td>RA</td>
<td>1.25</td>
<td>185</td>
<td>90</td>
<td>90</td>
<td>45</td>
<td>50</td>
<td>30</td>
<td>.10</td>
<td>.20</td>
</tr>
<tr>
<td>NC1</td>
<td>1</td>
<td>100</td>
<td>80</td>
<td>90^7</td>
<td>20</td>
<td>25</td>
<td>30</td>
<td>.12</td>
<td>-</td>
</tr>
<tr>
<td>NC2</td>
<td>1</td>
<td>175</td>
<td>100</td>
<td>90^6</td>
<td>40</td>
<td>40</td>
<td>30</td>
<td>.12</td>
<td>-</td>
</tr>
<tr>
<td>OS^15^16</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>35</td>
<td>.12</td>
<td>.30</td>
</tr>
</tbody>
</table>

^10Minimum lot width is measured at the building setback line.
All lots shall have minimum road frontage of one-half (1/2) the minimum lot width, except on a cul-de-sac street which shall be forty feet (40').

If existing buildings on adjoining lots are built within front yards, then the new building on subject lot may be built no closer than the average front yard setback of the existing building(s) located on either side of the subject lot.

On corner lots, the setback from the front lot line with which the residence is oriented, or which the main entrance or front door of the residence faces, shall be as required in Table 4.02. The setback from the other of the two (2) front lot lines shall be at least seventy-five percent (75%) of the requirement set for in Table 4.02.

On all lots, the side yard setbacks shall be the greater of the setbacks shown in Table 4.02 or twenty percent (20%) of overall lot width.

On all lots, the maximum building height shall be the greater of the maximum height shown in Table 4.02 or one hundred twenty percent (120%) of the average height of residential buildings fronting the same street within one thousand feet (1,000') of the lot.

Impervious surface ratio.

The lot line, as measured to the centerline of the private road, may be used to calculate the size of the lot and the front yard setbacks.

See § 2.04(a)(v) for applicable bulk standards.

4.03. **Non-residential bulk standards.** All non-residential uses shall meet the requirements of Table 4.03.

### Table 4.03
Non-Residential Bulk Standards

<table>
<thead>
<tr>
<th>District</th>
<th>Min. Lot Area (acres)</th>
<th>Min. Lot Width (ft)²⁹</th>
<th>Front Yard Setback (ft)</th>
<th>Side Yard Setback (ft)</th>
<th>Rear Yard Setback (ft)</th>
<th>Max. Height (ft)</th>
<th>Max. Bldg. Cover</th>
<th>ISR</th>
</tr>
</thead>
<tbody>
<tr>
<td>HC</td>
<td>1.25</td>
<td>185</td>
<td>100</td>
<td>35</td>
<td>75</td>
<td>25</td>
<td>.05</td>
<td>.30</td>
</tr>
<tr>
<td>IN (places of worship)</td>
<td>10</td>
<td>400</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>45²¹</td>
<td>.06</td>
<td>.35</td>
</tr>
<tr>
<td>IN (K-6 school)</td>
<td>20</td>
<td>400</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>45</td>
<td>.06</td>
<td>.40</td>
</tr>
<tr>
<td>IN (7-12 school)</td>
<td>50</td>
<td>400</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>45</td>
<td>.06</td>
<td>.40</td>
</tr>
<tr>
<td>CC</td>
<td>160</td>
<td>1000</td>
<td>500</td>
<td>500</td>
<td>500</td>
<td>35</td>
<td>.04</td>
<td>.12</td>
</tr>
</tbody>
</table>
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 (1/2) of the area required for each of the other uses.

Minimum lot width is measured at the minimum setback line.

Places of worship may have steeples, or other architectural features that exceed the maximum height limitations set forth in Table 4.03 of the zoning ordinance provided they meet the following requirements:

(a.) Said steeples or other architectural features shall cover no more than five percent (5%) of the total ground floor area.
(b.) Said steeples or other architectural features shall not exceed seventy feet (70') in height as measured from the ground beneath the steeple or other architectural feature to the top of the steeple or other architectural feature.
(c.) Said steeples or other architectural features may exceed the aforesaid limitations in subsections (a.) and (b.) above, provided they are approved by the board of commissioners.

4.04. **Reserved.**

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

(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 § 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 feet (100') to the nearest property line; provided, further, that no lighted accessory use shall be located closer than two hundred feet (200') to the nearest property line.

(d) **Other bulk standards:**
   (i) **Height.** Accessory uses shall not exceed twenty-five feet (25') in height or the height of the principal dwelling or principal building, whichever height is lower.
   (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>
<thead>
<tr>
<th>Type of Use</th>
<th>Minimum Number of Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings</td>
<td>Two (2) spaces per dwelling.</td>
</tr>
<tr>
<td>Places of worship</td>
<td>One (1) space for every three (3) seats in the main auditorium, sanctuary, or assembly room.</td>
</tr>
<tr>
<td>Schools: grades K-6</td>
<td>Two (2) spaces per classroom or one (1) space for every five (5) seats in an auditorium or assembly room, whichever is greater.</td>
</tr>
</tbody>
</table>
Schools: grades 7-12

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.

Historic commercial

One (1) space per two hundred fifty (250) square feet of floor area, and one (1) space for every two (2) gasoline pumps.

Country clubs

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 feet (150') to the street and to the side and one hundred feet (100') to the rear lot lines.

(ii) Country clubs. The parking area for a country club shall be no closer than one hundred fifty feet (150') to a street and to the side and one hundred feet (100') 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 feet (8'). The minimum length of the culvert under the driveway shall be sixteen feet (16') and the minimum diameter of said culvert shall be eighteen inches (18""). 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 feet (15') 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 feet (50') 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 feet (24') wide;
(3) The minimum width of the driveway shall be not less than ten feet (10'); 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 (5) 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 feet (10') 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 twenty feet (20'). 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 feet (4') 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 feet (3') 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 ten feet (10').** Retaining walls in excess of ten feet (10') 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 feet (6') 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.

(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 feet (4') 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 four feet (4') 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 five feet (5') 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.

(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 six feet (6') 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) *Generally prohibited.* Chain link or woven wire fences are prohibited (a) in front yards, (b) facing a front yard or parallel to a front lot line, and (c) where visible from any street right-of-way.

(2) *Conditionally permitted.* Except for farm fences as permitted herein, chain link or woven wire fences are conditionally permitted provided that the following conditions are met:

(a) The fence must be coated with a black, dark green or dark brown coating made of polymer or similar material;

(b) The fence shall not exceed four feet (4') in height regardless of its location;

(c) The yard between the fence and the adjacent lot must be landscaped such that not less than fifty percent (50%) of the height of the fence, as measured from the finished grade, is obstructed by landscaping; and

(d) A permit for the fence has been issued by the city manager after review of a landscaping plan illustrating compliance with this section.

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 feet (20') 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 percent (25%) 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 percent (25%) 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)

<table>
<thead>
<tr>
<th>Fixture Lamp Type</th>
<th>Shielding Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low pressure sodium</td>
<td>Partially</td>
</tr>
<tr>
<td>High pressure sodium</td>
<td>Fully</td>
</tr>
<tr>
<td>Metal halide</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Fluorescent</td>
<td>Fully</td>
</tr>
<tr>
<td>Fixture Lamp Type</td>
<td>Shielding Requirement</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Incandescent greater than 160 watt</td>
<td>Fully</td>
</tr>
<tr>
<td>Incandescent between 60 and 160 watt</td>
<td>Partially</td>
</tr>
<tr>
<td>Incandescent of 60 watt or less</td>
<td>None</td>
</tr>
<tr>
<td>Light source less than 1000 lumens that is not within any category above</td>
<td>None</td>
</tr>
<tr>
<td>Other sources</td>
<td>As approved by city manager</td>
</tr>
</tbody>
</table>

23 This is the preferred light source to minimize undesirable light emission into the night sky. Fully shielded fixtures are preferred but not required.

24 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).

24 Warm white and natural lamps are preferred to minimize detrimental effects.

(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) Ten foot by ten foot (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 Tennessee Code Annotated, § 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>
<thead>
<tr>
<th>Use</th>
<th>Type</th>
<th>Size (sq. ft.)</th>
<th>Height (ft.)</th>
<th>Number Per Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision</td>
<td>Ground</td>
<td>25</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Institutional use</td>
<td>Ground</td>
<td>25</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Country club</td>
<td>Ground</td>
<td>12</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Security</td>
<td>Ground or attached to mailbox</td>
<td>1</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Historic commercial</td>
<td>Wall</td>
<td>12</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Any other nonresidential sign</td>
<td>Ground</td>
<td>12</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Broker Sign</td>
<td>Attached to Dwelling</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Sign shall be located no closer than twenty feet (20’) to lot line.

(c) **Temporary sign standards.** All signs not requiring permanent attachment shall comply with the following standards:
Table 4.10(c)  
Temporary Sign Standards

<table>
<thead>
<tr>
<th>Use</th>
<th>Type</th>
<th>Size (sq. ft.)</th>
<th>Height (ft.)</th>
<th>Number Per Street Frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Sign</td>
<td>Ground</td>
<td>25</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Subdivision</td>
<td>Ground</td>
<td>25</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Special events</td>
<td>Ground</td>
<td>25</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Political Sign</td>
<td>Ground</td>
<td>16</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Construction Sign</td>
<td>Ground</td>
<td>8</td>
<td>5</td>
<td>1</td>
</tr>
</tbody>
</table>

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

(ii) Real estate signs must be removed within seven (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 twenty-five dollars ($25.00) 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 size nor more than two feet (2') in height above the ground may be placed at street corners on weekends (4:00 P.M. Friday to 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 (1) 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 feet (2') in
height within two hundred feet (200') 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 feet (275') on all scenic
arterial and arterial streets. (as added by Ord. #2011-196, Jan. 2012, replaced

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. (as added by Ord. #2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

**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 twenty-five feet (25') 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 fifty feet (50') 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 feet (25') 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 feet (25') 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 feet (50') around the perimeter of a pond or lake.
(c) Development standards.

(i) All construction, land disturbance, or grading on a lot where floodways, floodplains, surface waters or wet weather conveyances are located shall require a specific site plan prepared by a duly licensed professional engineer. The site plan shall demonstrate (i) full and complete compliance with the requirements of the storm water management ordinance, and (ii) that the planned construction, land disturbance, or grading will not result in either filling of the floodplain or floodway, or the degradation of surface waters or wet weather conveyances. Notwithstanding any requirements of § 14-504(1) of the municipal code to the contrary, if in the opinion of the city manager, or his designee, the applicant has not provided reasonably sufficient information to demonstrate compliance with the previous sentence, the city manager may require additional information or studies prior to issuance of a permit, including, but not limited to, a stormwater management plan or an erosion prevention and sediment control plan.

(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 ten 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 five feet (5') 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 stormwater around the area and conveys them into property constructed channels.

(2) Any building, dwelling or structure, either proposed or existing, within the HP District or with slippage soils 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 stormwater management ordinance, unless exempted in accordance with section 6.05(b).

(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 years prior to application for construction or development, such development shall be subject to the re-vegetation requirements of section 6.05(d).

(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.

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

(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.

(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 eighty (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 (2") at the time planted.

(iii) Replacement trees shall be maintained through an establishment period of at least three (3) 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 feet (25') 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. (as added by Ord. #2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

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, change or expand any nonconforming building, dwelling or structure, said owner shall apply to the city for a building permit for the alteration, change or expansion of same and the city manager shall refer the building permit application 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 feet (3') 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 feet (90').

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. (as added by Ord. #2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

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 Tennessee Code Annotated, §§ 6-18-101 through 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 Tennessee Code
Annotated, § 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 Tennessee Code Annotated, § 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. (as added by Ord. # 2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

**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 Tennessee Code Annotated, § 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 (1) 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 (1) 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. (as added by Ord. # 2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)

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 11.02 shall be observed and applied, except when the context clearly requires otherwise:

(a) Words used or defined in one (1) 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.
10.03. **Definitions.** The following words and phrases are defined terms used 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 (1) 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.

<table>
<thead>
<tr>
<th>Type of Livestock</th>
<th>Number of Animals Per Animal Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horses or ponies</td>
<td>One (1) horse or pony for every two and one-half (2 1/2) acres.</td>
</tr>
<tr>
<td>Cows or calves</td>
<td>2</td>
</tr>
<tr>
<td>Hogs</td>
<td>4</td>
</tr>
<tr>
<td>Sheep or lambs</td>
<td>7</td>
</tr>
<tr>
<td>Other poultry</td>
<td>50</td>
</tr>
</tbody>
</table>

**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 (1) 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).

**Board of commissioners:** The board of commissioners of the city.

**Board of zoning appeals:** The board of zoning appeals of the city.

**Building cover:** The portion of a lot permitted to be covered by primary dwellings, structures, guest houses/caretaker cottages, and accessory uses.

**Building height:** The vertical distance measured from grade plane to the average height of the highest roof surface. The grade plane is a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet (6’) from 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 Tennessee Code Annotated, §§ 6-21-201 and 6-21-202.

**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 (4 1/2') 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(s): Any house or building or portion thereof which can be occupied in whole or in part as the home, residence, or sleeping place of one (1) or more persons either permanently or transiently.

FAA: The Federal Aviation Administration.


Family means one of the following:
(a) One (1) individual;
(b) Two (2) or more persons related by blood, marriage, adoption, foster care, or law;
(c) A group of persons consisting of (i) one (1) 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 (1) 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 degrees (90°)), and no more than ten percent (10%) of the rated lamp output is emitted at or above eighty degrees (80°).
**Fixture, partially shielded:** An outdoor lighting fixture shielded in such a manner that in its installed position, no more than two and one-half percent (2.5%) of the rated lamp output is emitted at or above the horizontal (ninety degrees (90°)) and no more than ten percent (10%) is emitted at or above eighty degrees (80°).

**Floodplain:** The land which has been or may be hereafter covered by flood water during a flood having a one percent (1%) 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 foot (1').

**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:** The sum of the gross floor area for each story within a structure, measured from the exterior limits of the face of the structure. Floor area with a ceiling height of fifteen feet (15') or greater shall be counted twice. Floor area with a ceiling height of twenty-five feet (25') or greater shall be counted three (3) times. The floor area of a building includes basement floor area which is habitable. Attic floor area is included only if the attic area meets city building code standards and is habitable floor area. Not included are cellars, unenclosed porches, or any floor space in an accessory building or in the principal structure which is designed for the parking of motor vehicles in order to meet the parking requirements of this zoning ordinance. For dwellings in residentially zoned districts, the following shall be excluded from computation of floor area: (i) elevators, (ii) covered entries, (iii) individual dormers, (iv) bay windows, and (v) chimneys.

**Floor Area Ratio (FAR):** An intensity measured as a ratio derived by dividing the total floor area of a building or structure by the gross site area.

**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. 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, (i) a review of project needs, (ii) a site investigation of soil properties and characteristics, (iii) a risk assessment, (iv) 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, (v) 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 (vi) 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.

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: Any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, roofs of structures, parking and driveway areas, sidewalks, 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 (1) square foot of properly installed permeable pavement system will count as only 0.33 square foot of impervious surface.

Impervious surface ratio: 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.

Landscaping plan: A plan prepared and certified by a registered architect, landscape architect, or civil engineer drawn to a scale of not less than one inch
equals twenty inches (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 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 Figure 903.

**Major street plan:** The plan of streets adopted by the planning commission pursuant to Tennessee Code Annotated, § 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.

**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.

**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 twenty percent (20%) or greater. No land area shall be considered a steep slope unless the steep slope area has at least a ten foot (10') 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 inches (24") 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 (1) 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 and 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. (as added by Ord. #2011-196, Jan. 2012, replaced by Ord. #2013-210, Dec. 2013, and amended by Ord. #2014-218, Dec. 2014)

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**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 fifteen (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. (as added by Ord. #2011-196, Jan. 2012, and replaced by Ord. #2013-210, Dec. 2013)
CHAPTER 3

MUNICIPAL FLOODPLAIN DISTRICT

SECTION
14-301. Statutory authorization, findings of fact, purpose and objectives.
14-302. Definitions.
14-304. Administration.

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Forest Hills, Tennessee, Board of Commissioners does ordain as follows:

(2) Findings of fact. (a) The City of Forest Hills Board of Commissioners wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of Forest Hills are subject to periodic inundation that could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To establish eligibility for participation in the National Flood Insurance Program. (Ord. #07-174, April 2007)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives. The definitions within this § 14-302 shall not be applied outside the context of this chapter or outside the flood plain district established within the City of Forest Hills.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.
(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 USC 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone, on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A, on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A, usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(8) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(10) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(11) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(12) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by
means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(13) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(14) "Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the program.

(15) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(16) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(17) "Existing structures" see "existing construction."

(18) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;
(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(19) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(20) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(21) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(22) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(23) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.
(24) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood or flooding").

(25) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(26) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(27) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(28) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(29) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(30) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(31) "Floodway" means the channel of a river or other watercourse 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 a designated height.

(32) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of 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.
(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:
   (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
   (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
   (c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
   (d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
      (i) By an approved state program as determined by the Secretary of the Interior, or
      (ii) Directly by the Secretary of the Interior.

(37) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(38) "Map" means the Flood Hazard Boundary Map (FHBHM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(39) "Mean-sea-level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with
National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(40) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(41) "New construction" means any structure for which the "start of construction" commenced after the effective date of this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(42) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(43) "100-year flood" see "base flood."

(44) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(45) "Recreational vehicle" means a vehicle which is:
   (a) Built on a single chassis;
   (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
   (c) Designed to be self-propelled or permanently towable by a light duty truck; and
   (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(46) "Regulatory floodway" means the channel of a river or other watercourse 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 a designated height.

(47) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(48) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(49) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include
the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(50) "State coordinating agency" The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

(51) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(52) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(53) "Substantial improvement" means any repairs, reconstruction's, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(54) "Variance" is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
(55) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(56) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #07-174, April 2007)

14-303. **General provisions**. (1) **Application.** This chapter shall apply to all areas within the incorporated area of Forest Hills, Tennessee.

(2) **Basis for establishing the areas of special flood hazard.** The areas of special flood hazard identified on the Forest Hills, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47037C0317 F, 47037C0328 F, 47037C0329 F, 47037C0333 F, 47037C0336 F, and 47037C0337 F, dated, April 20, 2001, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) **District established as overlay.** There is hereby established a flood plain district within the City of Forest Hills. The boundaries of this district shall correspond to the areas of special flood hazard identified on the City of Forest Hills, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map, as defined in subsection (2), Basis for establishing the areas of special flood hazard, above. The flood plain district shall overlay other zoning districts within the boundaries of such district as identified herein. Within the flood plain district, the provisions of section 502 of the City of Forest Hills Zoning Ordinance shall apply in addition to provisions established for the underlying district(s).

(4) **Requirement for development permit.** A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(5) **Compliance.** No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(6) **Abrogation and greater restrictions.** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(7) **Interpretation.** In the interpretation and application of this chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.
(8) **Warning and disclaimer of liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Forest Hills, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(9) **Penalties for violation.** Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Forest Hills, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(Ord. #07-174, April 2007)

14-304. **Administration.** (1) **Designation of ordinance administrator.** The city manager is hereby appointed as the administrator to implement the provisions of this chapter.

(2) **Permit procedures.** Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean-sea-level to which any non-residential building will be floodproofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-304(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
(b) Construction stage. Within unnumbered A Zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean-sea-level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood
carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-304(2).

(f) Record the actual elevation; in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(g) When floodproofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-304(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A, on the community FIRM, meet the requirements of this chapter.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302, of this chapter). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

(j) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #07-174, April 2007)

**14-305. Provisions for flood hazard reduction.** (1) General standards. In all flood prone areas the following provisions are required:
(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(c) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(d) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(e) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(g) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(h) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and,

(i) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-305(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated
or floodproofed to a level of at least three feet (3') above the highest
adjacent grade (lowest floor and highest adjacent grade being defined in
§ 14-302, of this chapter). All applicable data including elevations or
floodproofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or
substantial improvement of any commercial, industrial, or
non-residential building, when BFE data is available, shall have the
lowest floor, including basement, elevated or floodproofed no lower than
one foot (1') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not
been established and where alternative data is not available, the
administrator shall require the lowest floor of a building to be elevated
or floodproofed to a level of at least three feet (3') above the highest
adjacent grade (lowest floor and highest adjacent grade being defined in
§ 14-302, of this chapter). All applicable data including elevations or
floodproofing certifications shall be recorded as set forth in § 14-304(2).

Buildings located in all A Zones may be floodproofed, in lieu of
being elevated, provided that all areas of the building below the required
elevation are watertight, with walls substantially impermeable to the
passage of water, and are built with structural components having the
capability of resisting hydrostatic and hydrodynamic loads and the effects
of buoyancy. A registered professional engineer or architect shall certify
that the design and methods of construction are in accordance with
accepted standards of practice for meeting the provisions above, and shall
provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial
improvements to existing buildings that include any fully enclosed areas
formed by foundation and other exterior walls below the base flood
elevation, or required height above the highest adjacent grade, shall be
designed to preclude finished living space and designed to allow for the
entry and exit of flood waters to automatically equalize hydrostatic flood
forces on exterior walls.

(i) Designs for complying with this requirement must
either be certified by a professional engineer or architect or meet
the following minimum criteria.

(A) Provide a minimum of two openings having a
total net area of not less than one (1) square inch for every
square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher
than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens,
louvers, valves or other coverings or devices provided they
permit the automatic flow of floodwaters in both directions.
(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.

(d) Standards for recreational vehicles. All recreational vehicles placed on identified flood hazard sites must either:

(i) Be on the site for fewer than one hundred-eighty (180) consecutive days;

(ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(iii) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred-eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without
increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-305.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-305(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-305. Only if data is
not available from these sources, then the following provisions (b & c) shall apply:

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-305(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-305(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three feet (3') above the highest adjacent grade. A registered
professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303, are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304, and 14-305(1), shall apply.

(8) Standards for unmapped streams. Located within the City of Forest Hills, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-304. (Ord. #07-174, April 2007)

14-306. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within the City of Forest Hills, Tennessee.

(1) Board of zoning appeals.

(a) The City of Forest Hills Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's
continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(i) The danger that materials may be swept onto other property to the injury of others;
(ii) The danger to life and property due to flooding or erosion;
(iii) The susceptibility of the proposed facility and its contents to flood damage;
(iv) The importance of the services provided by the proposed facility to the community;
(v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
(vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
(vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
(viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
(ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
(x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(d) Upon consideration of the factors listed above, and the purposes of this chapter, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this chapter.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would
result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or chapters.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. #07-174, April 2007)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the City of Forest Hills, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter that is not of itself invalid or unconstitutional. (Ord. #07-174, April 2007)
CHAPTER 4

TRAINING AND CONTINUING EDUCATION REQUIREMENTS

SECTION

14-401. Opt out of participation in training and continuing education. Pursuant to the Tennessee Code Annotated, §§ 13-4-101(c)(9) and 13-7-106(b)(9), the City of Forest Hills does hereby opt out of participation in the Planning Commission and Board of Zoning Appeals Training and Continuing Education Act of 2002. (Ord. #07-175, April 2007)
CHAPTER 5

STORMWATER MANAGEMENT

SECTION
14-501. General provisions. (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the City of Forest Hills and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of Forest Hills to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

(c) Allow the City of Forest Hills to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions, commercial developments, and any proposed land disturbing activities requiring a grading permit;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The City of Forest Hills shall administer the provisions of this chapter through the city manager, or his designee. (as added by Ord. #2010-189, June 2010)

14-502. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As-built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices" or "BMPs" are physical, structural, nonstructural and/or managerial practices that, when used singly or in combination, prevent or reduce stormwater runoff or pollution, that have been approved by the City of Forest Hills, and that have been incorporated by reference into this chapter as if fully set out therein.

(3) "BMP Manual" has the meaning given in § 14-505.

(4) "City engineer" means the city engineer appointed by the board of commissioners of the City of Forest Hills, or the city engineer's designee.

(5) "City manager" means the city manager appointed by the board of commissioners of the City of Forest Hills, or the city manager's designee.

(6) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
(7) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Forest Hills.

(8) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(10) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(11) "Disturb" means to alter the natural or predeveloped ground surface in such a way that the erosion potential of the ground surface is increased.

(12) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(13) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(14) "Erosion prevention and sediment control plan (EPSC plan) or (EPSC)." means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(15) "Green Infrastructure Practices (GIP)" means practices that maintain or restore stormwater's natural flow pattern by allowing water to permeate slowly into the ground.

(16) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(17) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(18) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-504(3).

(19) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
(20) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(21) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(22) "Municipal Separate Storm Sewer System" or "MS4" means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(23) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 USC § 1342.

(24) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(25) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(26) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(27) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(28) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(29) "Runoff reduction measures (RRM)" means post construction measures that reduce stormwater runoff volumes from a developed parcel of property.

(30) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(31) "Site" means a particular lot or piece of property.

(32) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(33) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
(34) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(35) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(36) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, best management practices, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(37) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(38) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(39) "Stream" or "streams" means natural or man-made lakes, ponds, streams, creeks, or other watercourses that discretely convey flowing water, as opposed to sheet-flow.

(40) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(41) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(42) "Tennessee Construction General Permit" means a permit issued by TDEC to operators of construction sites involving clearing, grading or excavation that result in an area of disturbance of one (1) or more acres, and activities that result in the disturbance of less than one (1) acre if it is part of a larger common plan of development or sale.

(43) "TDEC" means the Tennessee Department of Environment and Conservation.

(44) "Tennessee Department of Environment and Conservation (TDEC) Level I and Level II Trained Individual" means an individual who has successfully completed the Level I Fundamentals course and the Level II Design Principles for Erosion Prevention and Sediment Control at Construction Sites course conducted by the Tennessee Water Resources Research Center.

(45) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(46) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #2010-189, June 2010, and amended by Ord. #2014-213, May 2014)
14-503. Erosion prevention and sediment control. (1) All land disturbing activities shall employ adequate erosion and sediment control measures to minimize erosion and prevent off-site sedimentation in conformance with the provisions of this chapter and guidance materials referenced herein. Land disturbing or construction activities that do not employ erosion and sediment controls in conformance with this chapter and that cause off-site sedimentation or sediment discharges to waters of the state or onto adjacent properties shall be in violation of this chapter.

(2) All previously disturbed areas shall be permanently stabilized with groundcover sufficient to restrain erosion. (as added by Ord. #2010-189, June 2010)

14-504. Land disturbance permits. (1) When required.
(a) Every person shall obtain a land disturbance permit from the City of Forest Hills in the following cases:
   (i) Land disturbing activity disturbs two thousand five hundred (2,500) square feet or more of land;
   (ii) The creation and use of borrow pits; or
   (iii) Other comparable activities as determined by the city manager.
(b) Land disturbance permit applications shall not be approved unless the following conditions are met:
   (i) For residential and non-residential developments disturbing ten thousand (10,000) square feet of land or more, an erosion prevention and sediment control plan and a stormwater management plan shall be required. Forms provided in Appendix A of this chapter must be completed and submitted with the land disturbance permit application. These forms may be altered as deemed necessary by the city manager to modify the information required to be provided by the applicant provided that such modification preserves the intent of this chapter and do not alter the design criteria or the water quality standards contained therein.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this chapter.

(3) Exemptions. The following activities are exempt from obtaining a land disturbance permit:
   (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

1Appendix A "Forms" is an attachment to Ord. #2010-189 and is available in the city recorder’s office.
(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.

(d) Additions or modifications to existing single family structures provided that the land to be disturbed measures less than ten thousand (10,000) square feet of land and poses no unique threat to water, or public health or safety.

(e) 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.

(f) 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, provided that root wads or stumps should be left in place, where feasible, to maintain soil stability.

(g) Removal of trees or plants listed in the current edition of invasive exotic pest plants, published by Tennessee Exotic Pest Plant Council.

(h) 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.

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

(j) Other comparable activities as determined by the city manager.

(4) Review and approval of application. (a) The City of Forest Hills and/or its designated consultant shall review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. Within a reasonable time after receiving an application, the City of Forest Hills or its designated engineering consultant shall provide one of the following responses in writing:

(i) Approval of the permit application;

(ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issue the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the City of Forest Hills has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Forest Hills within the timeframe designated in the conditional approval. However, the applicant
shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Forest Hills.

c) The city will not be obligated to issue any building permit, or approve any subdivision of land, unless and until it has first approved the land disturbance permit.

(5) Permit duration. Every land disturbance permit shall expire and become null and void if the work authorized by such permit is not complete within eighteen (18) months from the date of permit issuance.

(6) Notice of construction. The applicant must notify the City of Forest Hills ten (10) business days in advance of the commencement of construction.

(7) Inspections and maintenance. (a) The city manager may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream(s), natural drainageway(s) or via any other private or public stormwater management system during all reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter.

(b) EPSC inspections. At least every two (2) weeks, the land disturbance permit holder shall perform routine inspections as follows:

(i) Disturbed areas shall be inspected in conformance with the conditions of the Tennessee construction general permit.

(ii) Inspections shall be documented and the documentation provided to the City of Forest Hills when requested.

(iii) All erosion prevention and sediment control measures shall be inspected to ensure that they are functioning as designed.

(c) All erosion prevention and sediment control measures shall be maintained by the land disturbance permit holder to ensure that they are functioning as designed. Failure to maintain measures constitutes a violation of this chapter.

(d) Permanent stormwater management facilities inspections. Permanent stormwater management facilities shall be inspected by the land disturbance permit holder on a regular basis, but not less than every two (2) weeks, during construction and by the landowner on a regular basis, but not less than annually, after construction has been completed to ensure that they are functioning as designed.

(i) Inspections shall be documented and documentation provided to the City of Forest Hills when requested.

(ii) Permanent stormwater facilities shall be maintained by the land disturbance permit holder during construction and by the landowner after construction has been completed to ensure that they are functioning as designed.

(8) Performance bonds. (a) The City of Forest Hills may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the
stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of Forest Hills. Alternatively, the City of Forest Hills shall have the right to calculate the cost of construction cost estimates.

(b) The performance security or performance bond shall be released in full only upon:

(i) Submission of as-built plans;

(ii) Witten certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP(s) have been installed in accordance with the approved plan and other applicable provisions of this chapter; and

(iii) The structural BMPs have been in place and operational for at least one (1) full calendar year.

The City of Forest Hills will make a final inspection of the structural BMP(s) to ensure that they are in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Forest Hills. (as added by Ord. #2010-189, June 2010, and amended by Ord. #2011-195, Oct. 2011, and Ord. #2014-213, May 2014)

14-505. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The City of Forest Hills adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this chapter as is fully set out herein (each a "BMP Manual" and altogether the "BMP Manuals"):

(i) Tennessee Erosion and Sediment Control Handbook, as published by TDEC.

(ii) TDEC Manual for Post Construction (also referred to as "Guide to the Selection and Design of Stormwater Best Management Practices (BMPS)").

(b) These manuals include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These manuals may be updated and expanded from time to time, at the discretion of the City of Forest Hills based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for permanent stormwater quality management. Unless granted a waiver or judged by the City of Forest Hills to be exempt, the following performance criteria shall be addressed in the site design for permanent stormwater management at all new and redevelopment sites:

(a) The site design for all new and redevelopment sites shall provide, in combination or alone, management measures (i.e., runoff reduction measures of green infrastructure practices) that are designed, build and maintain to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed onsite with no discharge to streams or the city's drainage infrastructure.

(b) Pre-development soil types for the site and their infiltrative capacity must be taken into account in the selection of RRM or GIP.

(c) The City of Forest Hills may approve alternative measures to meet infiltration requirements in lieu of RRM or GIP to meet the stated requirements, but shall be based on actual site limitations, which may include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Where sinkholes or other karst features are shown to exist;

(iv) Where there is a lack of land area availability onsite to meet infiltration requirements.

(d) All site designs requiring a stormwater management plan according to §14-504(1)(b)(i) of this chapter or as otherwise required by the City of Forest Hills shall control the peak flow rates of stormwater discharge associated with design storms specified in the City of Forest Hills Subdivision Regulations and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to meet minimum performance criteria stated
in this section, and provide treatment for both water quality and quantity.

(e) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(f) Stormwater discharges to critical areas with sensitive resources (such as streams included on TDEC's 303(d) list) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(g) Stormwater discharges into streams impaired by sediment or into streams with an approved TMDL may be subject to additional performance criteria.

(h) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(i) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Forest Hills to determine if they are subject to additional stormwater design requirements.

(j) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities. Other hydrological methods of determining peak runoff may be substituted; however, they will be subject to the City of Forest Hills' engineering review for appropriateness.

3 General performance criteria for permanent stormwater quality management. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the subdivision regulations unless the City of Forest Hills has granted the applicant a full or partial waiver for particular BMP under § 14-506(6).

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Forest Hills may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

4 Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Forest Hills to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map. Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:
(i) Existing surface water drainage includes streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
(ii) Current land use including all existing structures, locations of utilities, roads, and easements;
(iii) All other existing significant natural and artificial features;
(iv) The overall watershed drainage boundary broken down into appropriately sized sub-basins and showing locations of hydrologic computation points (i.e. nodes);
(v) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;
(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
(d) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the subdivision regulations. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter, the subdivision regulations, and the guidelines of the BMP Manual. The stricter regulations shall govern. Such calculations shall include:
   (i) A description of the design storm frequency, duration, and intensity;
   (ii) Time of concentration calculations;
   (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
   (iv) Peak runoff rates, method used along with basis for selected method, and total runoff volumes for each sub-basin area;
   (v) Infiltration rates, where applicable and source of rates;
   (vi) Culvert storm sewer, ditch and/or other stormwater conveyance capacities for each storm event, along with methodology used;
   (vii) Flow velocities for applicable storm events;
   (viii) Data on the increase/decrease in rate and volume of runoff for the design storms, referenced in the subdivision regulations or BMP manuals; and
   (ix) Documentation of sources for all computation methods used (i.e. computer program input/output, hand calculations, etc.).
(ix) Documentation of sources for all computation methods used (i.e. computer program input/output, hand calculations, etc.).

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(f) The applicant must demonstrate to the satisfaction of the City of Forest Hills that the proposed design will not lead to any of the following conditions downstream:

(i) Deterioration of existing roadway or driveway culverts, bridges, dams, and other structures;
(ii) Degradation of biological functions or habitat;
(iii) Accelerated streambank or streambed erosion or siltation;
(iv) Increased threat of flood damage to public health, life or property.

(g) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(5) Erosion prevention and sediment control plan requirements. The Erosion Prevention and Sediment Control (EPSC) Plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be prepared by an individual who has successfully completed the TDEC Level I training course or a Certified Professional in Erosion and Sediment Control (CPESC). The plan shall address all items on the EPSC Plan checklist. Failure to fully complete the EPSC checklist could be considered an incomplete submittal and result in plan disapproval. (as added by Ord. #2010-189, June 2010, and amended by Ord. #2014-213, May 2014)
14-506. Post-construction. (1) As-built plans. All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Forest Hills is required before any performance security or performance bond will be released. The City of Forest Hills shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Forest Hills.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Forest Hills.

(b) Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(c) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(d) The following minimum criteria shall apply to re-vegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or
its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) Prior to releasing the performance bond, a permanent ground cover must be established over the entire site.

(v) In addition to the above requirements, a landscaping plan may be required to be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in § 14-504(7)(d).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Forest Hills during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City of Forest Hills, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Forest Hills shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have ten (10) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Forest Hills may take necessary corrective action. The cost of any action by the City of Forest Hills under this section shall be charged to the responsible party.

(6) Waivers. (a) General. Every applicant required to submit a stormwater management plan as stated in § 14-504(1)(b)(i) or as otherwise required by the City of Forest Hills shall provide for
post-construction stormwater management as required by this chapter. Requests to waive the stormwater management plan requirements shall be submitted to the City of Forest Hills for approval.

(b) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one (1) of the following conditions applies:

(i) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.

(ii) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Forest Hills.

(iii) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(c) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Forest Hills that the waiver will not lead to any of the following conditions downstream:

(i) Deterioration of existing roadway or driveway culverts, bridges, dams, and other structures;

(ii) Degradation of biological functions or habitat;

(iii) Accelerated streambank or streambed erosion or siltation;

(iv) Increased threat of flood damage to public health, life or property.

(d) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan.

(7) Post-construction maintenance agreement. (a) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which
the facility is located and be recorded as such on the plat for the property by appropriate notation.

(ii) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The agreement shall also provide that the City of Forest Hills may require additional inspections to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Forest Hills, and that the cost of such inspections shall be paid by the property owner. It shall also grant permission to the city and its agents to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule subject to the review and/or amendment by the City of Forest Hills.

(c) If the property or BMP owner fails to maintain or repair the stormwater management system within a schedule prescribed by the city, the City of Forest Hills shall perform the maintenance and repair at its expense, and bill the same to the property owner. The City of Forest Hills's cost of performing the maintenance shall be a lien against the property. (as added by Ord. #2010-189, June 2010, and amended by Ord. #2014-213, May 2014)

14-507. Adequate stormwater facilities. (1) Right of entry. The city manager, or his designee, may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream(s), natural drainageway(s) or via any other private or public stormwater management system during all reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter.

(2) Inspection of stormwater facilities. The City of Forest Hills may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before
as well as after the adoption of this chapter, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.  

(3) Stormwater facilities. (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Forest Hills.  

(i) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.  

(ii) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.  

(iii) Trash, junk, rubbish, etc. shall be cleared from drainage ways.  

(iv) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters.  

(b) Requirements for existing problem locations. The City of Forest Hills shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.  

(c) Appeals. Corrective measures imposed by the city manager under this section are subject to appeal under § 14-512 of this chapter. (as added by Ord. #2010-189, June 2010)  

14-508. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.  

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:  

(a) Uncontaminated discharges from the following sources:
(i) Water line flushing or other potable water sources;
(ii) Landscape irrigation or lawn watering with potable water;
(iii) Diverted stream flows;
(iv) Rising ground water;
(v) Groundwater infiltration to storm drains;
(vi) Pumped groundwater;
(vii) Foundation or footing drains;
(viii) Crawl space pumps;
(ix) Air conditioning condensation;
(x) Springs;
(xi) Non-commercial washing of vehicles;
(xii) Natural riparian habitat or wet-land flows;
(xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);
(xiv) Fire fighting activities; and
(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the City of Forest Hills as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Forest Hills has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency
response agencies of the occurrence via emergency dispatch services. In the
event of a release of non-hazardous materials, the person shall notify the City
of Forest Hills in person or by telephone or facsimile no later than the next
business day. Notifications in person or by telephone shall be confirmed by
written notice addressed and mailed to the City of Forest Hills within three (3)
business days of the telephone notice. If the discharge of prohibited materials
emanates from a commercial or industrial establishment, the owner or operator
of such establishment shall also retain an on-site written record of the discharge
and the actions taken to prevent its recurrence. Such records shall be retained
for at least three (3) years. (as added by Ord. #2010-189, June 2010)

14-509. Water quality buffers. (1) Scope. A water quality buffer shall
be established, protected, and maintained along all “community waters” in areas
of new development and redevelopment for which a land disturbance permit, as
defined in § 14-504, is required. All water quality buffers shall be clearly marked
on site development plans, grading permit applications, plats, and/or concept
plans. "Community waters" means and includes:
   (a) Intermittent and perennial streams (and their source
   springs);
   (b) Lakes and ponds with hydrologic connectivity (stream
   leading into/out of the pond or obvious spring input;
   (c) Wetlands that have been identified by the U.S. Army Corps
   of Engineers, TDEC, or City of Forest Hills or Metro staff; and
   (d) Wet weather conveyances.
(2) Buffer widths. Widths shall be either
   (a) As described in Metropolitan Nashville-Davidson County
   Stormwater Management Manual, Volume 1 – Regulations, Section 6.9.2,
   or
   (b) The buffer shall measure twenty-five feet (25') perpendicular
   from the top of bank on each side of the community water channel;
   twenty-five feet (25') around the perimeter of a pond or lake identified as
   a community water measured as perpendicular to the contour at which
   normal pool is located around; and twenty-five feet (25') around the
   perimeter of a wetland identified as a community water, whichever is
   more restrictive.
(3) The water quality buffer is to remain undisturbed except for the
following disturbances which are allowed subject to approval of the city manager
including the approval of an erosion prevention and sediment control plan:
   (a) Limited disturbances to remove and/or plant trees or
   vegetation, as required to maintain the overall health of vegetation in the
   buffer area.
   (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) 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.

(d) Disturbances as required to establish and/or restore buffer areas in accordance with an approved buffer enhancement plan.

(4) Any approved disturbance of the water quality buffer shall be revegetated in kind and/or enhanced subject to the requirements of § 14-506(2)(a) of this chapter and approval of the city manager. The vegetative target for the inner zone is mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. Where forest vegetation has the potential to impact traffic safety or limit access, areas immediately surrounding approved stream crossings and utility access areas may be vegetated with dense grasses. (as added by Ord. #2010-189, June 2010, and amended by Ord. #2014-213, May 2014)

14-510. Enforcement. (1) Enforcement authority. The city manager or his designees shall have the authority to issue notices of violation and citations, to issue cease and desist orders, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city manager may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The city manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(c) Show cause hearing. The city manager may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed
enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the city manager finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or
(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the municipality under this chapter, the strictest standard shall prevail. (as added by Ord. #2010-189, June 2010)

14-511. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Forest Hills, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Forest Hills of not less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00) or such lesser amount as may be allowed by law per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the city manager may consider:

(a) The harm done to the public health or the environment;
(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
(c) The economic benefit gained by the violator;
(d) The amount of effort put forth by the violator to remedy this violation;
(e) Any unusual or extraordinary enforcement costs incurred by the municipality;
(f) The amount of penalty established by chapter or resolution for specific categories of violations; and
(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover:
(a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation; and
(b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #2010-189, June 2010)

14-512. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation and on the city's website. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2010-189, June 2010)
14-513. **Effective date.** The ordinance comprising this chapter shall take effect fifteen (15) days after its passage on second reading, the welfare of the City of Forest Hills requiring it. (as added by Ord. #2010-189, June 2010)