

# The Village of Forest Hills Zoning Ordinances

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# **The Village of Forest Hills Zoning Ordinances**

**Approved by the Council of The Village of Forest Hills August 2, 2004**

Rev. 8/2/2004, 12/4/2006, 4/6/2010, March 2011, 04/07/2015, 08/04/2015, and 07/25/2016

## **ARTICLE 100. AUTHORITY AND GENERAL REGULATIONS**

### **Section 101. Authority and Enactment Clause.**

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The Legislature of the State of North Carolina has in Chapter 160A, Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement; Article 19. Part 1, General Provisions and Part 3, Zoning, delegated the responsibility of adopting regulations to promote the public health, safety, and general welfare of its citizenry to local government. The Forest Hills Village Council does hereby ordain and enact into law the following Sections as the Zoning Ordinance of The Village of Forest Hills, North Carolina.

### **Section 102. Purpose.**

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The purpose of this Ordinance is to preserve the social, economic, and aesthetic conditions that make up The Village of Forest Hills. The land use and development standards contained in this Ordinance are intended to promote and enhance The Village's unique community atmosphere.

[THERE IS NO DEFINITIONS SECTION IN THE ORDINANCE.]

### **Section 103. Jurisdiction.**

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The provisions of this Ordinance shall apply within the entire corporate limits of The Village of Forest Hills ("The Village") and the extraterritorial area shown on the map entitled, "Zoning Map of The Village of Forest Hills, North Carolina" ("the Zoning Map") which is adopted simultaneously herewith. The Zoning Map and all explanatory matter thereon accompanies and is hereby made a part of this Ordinance and, together with a copy of this Ordinance, shall be permanently kept on file in the office of the Village Clerk, in the Office of the Village Attorney, and in the Office of the Register of Deeds of Jackson County.

### **Section 104. Exemptions to Applicability.**

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A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any County ordinance or regulation pertaining thereto; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of The Village of Forest Hills, North Carolina; however, the adoption of this Ordinance shall and does amend by substitution all previously enacted Zoning Ordinances for the Village and any amendments made thereto.

B. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if this Ordinance imposes greater restrictions or higher standards for the use of a building or land, then the provisions of this Ordinance shall control.

C. These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of this Ordinance or any amendment thereto, so long as the building permit has not been revoked or allowed to expire. However, once constructed, any structure so

erected will be subject to all regulations set forth in this Ordinance.

D. All suits at law or in equity, and all prosecutions resulting from the violation of any Ordinance provisions which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this amended Ordinance, but shall be prosecuted to their finality the same as if this amended Ordinance had not been adopted; and any and all violations of this or the previously existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be construed as to abandon, abate, or dismiss any litigation or prosecutions now pending or which heretofore be instituted or prosecuted.

### **Section 105. Non-Conforming Lots, Uses, Buildings, Premises, and Manufactured Homes.**

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A. Non-Conforming Lots. Any single lot that does not meet the minimum density or dimensional requirements may nevertheless be used as a building site provided that the lot was in existence at the time of the adoption of this Ordinance, or alternatively, complied with the single-family site density requirements of this Ordinance in effect at the time it was recorded, as evidenced by a recorded plat or as described in a conveyance recorded among the public records of Jackson County.

B. Non-Conforming Uses. The lawful use of any building or premises at the time of the enactment of this Ordinance, or immediately preceding any application amendment thereto, may be continued even though the use does not conform to the provisions of this Ordinance, as amended. However, the non-conforming use shall not be enlarged, changed to another non-conforming use, or re-established after its discontinuance for a period of six months.

C. Non-Conforming Buildings and Premises. Buildings and premises (including parking areas and other parts thereof) which existed at the time of the enactment of this Ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith, except in the following cases:

- 1) Additions. If an addition is made to any existing building or premises, such addition shall comply with the current provisions of this Ordinance.
- 2) Alterations, repairs, and reconstruction due to natural disaster or fire. If alterations or repairs in excess of 50% of the physical assessed value of an existing building are made to that building within any 12-month period, such building and premises shall be made to conform to the current requirements of this Ordinance. However, if repairs or reconstruction is made because of a natural disaster or fire such buildings and premises may be replaced in the same location and dimensional size (footprint). Any deviation shall require compliance with the terms of this Ordinance.
- 3) Change of use. If the use of a building changes so that the requirements for the new use are in any way more stringent than the requirements for the previous use of the building, such building and premises shall be made to conform to the current requirements of this Ordinance.
- 4) Discontinuance of use in a non-conforming building. If the conforming use of any building or premises has been discontinued for a period of six consecutive months, the use shall not be re-established until said building and premises are made to conform as much as possible to the current requirements of this Ordinance.

D. Non-Conforming Manufactured Homes. Manufactured homes that exist at the time of the enactment of this Ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.

**Section 106. Remedies.**

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If any building, structure, sign, or facility is erected, constructed, reconstructed, altered, repaired, converted, maintained, or used in violation of this Ordinance, the Village Council may institute any appropriate actions or proceedings available in law or in equity including but not limited to those described in G.S. 160A-175 and described in this Ordinance.

A. Injunction. Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to G.S. 160A-175.

B. Criminal Penalties. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor or infraction as provided by NCGS 14-4 subject to maximum fine of \$500 or imprisonment not more than 30 days. Each day that the violation continues shall constitute a separate offense.

C. Civil Penalties. Any person who violates any provision of this Ordinance may be subject to the assessment of a civil penalty according to Section 704, Civil Penalties Procedure.

D. Stop-Work Orders. Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Jackson County Zoning Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with G.S. 160A-421 and/or the N. C. Building Code.

E. Revocation of Permits or Certificates. The Jackson County Zoning Administrator or the Zoning Board of Adjustment may revoke and require the return of a permit or certificate by notifying the permit holder in writing and stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certification. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

F. Conditional Permit. The Jackson County Zoning Administrator may condition the authorization of any permit or certificate upon the correction of a deficiency, or payment of civil penalties within a specified time.

G. Denial of a Permit or Certificate. The Jackson County Zoning Administrator shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, sign, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certification, or other authorization previously granted.

H. Powers of the Village Council. If any building, structure, or facility is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, facility, or land is used in violation of this Ordinance, the Village Council, in addition to all other remedies available either

in law or in equity, may institute any appropriate actions or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

**Section 107. Vested Rights.**

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In accordance with G.S. 160A-385.1(f)(3), a land owner may establish a vested right with respect to property upon approval of a Zoning Certificate or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

**ARTICLE 200. DISTRICT REGULATIONS**

**Section 201. R-1 Residential District.**

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The R-1 Residential District is a low-density residential district for single-family dwellings and other related uses that contribute to the District's residential character.

A. Permitted and Conditional Uses. Within the R-1 Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

Single-family dwellings, including the following:

Standard on-site, frame-constructed homes and modular homes above-ground (but expressly excluding manufactured homes).

Any customary accessory outbuildings appurtenant to single-family dwellings, including private garages and non-commercial buildings such as greenhouses and hobby workshops. A camping trailer, motor home, or similar recreational vehicle or equipment may be parked on residential property, provided that it is not occupied, not connected to a source of water or sewer, and is parked within applicable setback lines of the side and/or rear yard.

Non-commercial horticultural activities.

Customary home occupations are permitted under the following conditions:

- No evidence of the home occupation shall be visible or audible from outside the dwelling.
- Home occupations shall not occupy more than twenty-five percent of the gross floor space of the dwelling.
- No significant amounts of any commodity shall be sold on the premise and the use shall not significantly increase vehicular traffic or require more than one additional parking space.

Non-Athletic, Passive Use Public parks, greenways, golf courses, and playgrounds.

Yard sales.

Each residence may conduct not more than two one-day on-premise yard sales within any calendar year.

Residences occupied by more than two (2) unrelated persons, upon issuance of a Conditional Use Permit as described in Article 500.

**B. Minimum Residential Lot Size and Width.**

Minimum lot size and width: minimum ½ acre if served by public water and sewer or minimum 1 acre if service is received from well or septic system. Minimum lot width at building line: 100 feet for lots created after the effective date of this Ordinance; 50 feet for residential lots created prior to the adoption of this Ordinance.

**C. Setbacks.**

No building within the R-1 Residential District shall be erected within twenty-five feet of the property line of an adjoining ownership nor within twenty-five feet of the edge of the right-of-way line of any public or private road. If no right-of-way line is defined among the public records of Jackson County; no building shall be erected within forty-five feet of the road centerline.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

**D. Structure Height.**

No structure located within the R-1 Residential District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed 35 feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

**E. Sign Regulations.**

The sign regulations set forth in Article 400 shall apply to the R-1 Residential District.

**F. Off-Street Parking.**

The minimum requirements for off-street parking are set forth in Article 300 of this Ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-1 Residential District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from view along any public street or walkway.

**Section 202. R-1-A Residential District.**

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The R-1-A Residential District is a low-density residential district for single-family dwellings and other related uses that contribute to the District's residential character.



A. Permitted and Conditional Uses. Within the R-1-A Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

All uses permitted in the R-1 Residential District.

Residential Planned Unit Developments as a conditional use described in Article 500.

Residences occupied by more than two (2) unrelated persons, upon issuance of a Conditional Use Permit as described in Article 500.

B. Minimum Residential Lot Size and Width.

Minimum lot size: minimum ½ acre if served by public water and sewer or minimum 1 acre if service is received from well or septic system except as permitted in Residential Planned Unit Developments. Minimum lot width at building line: 100 feet for lots created after the effective date of this Ordinance except as permitted in Residential Planned Unit Developments; 50 feet for residential lots created prior to the adoption of this Ordinance.

C. Setbacks.

No building within the R-1-A Residential District shall be erected within twenty-five feet of the property line of an adjoining ownership nor within twenty-five feet of the edge of the right-of-way line of any public or private road. If no right-of-way line is defined among the public records of Jackson County, no building shall be erected within forty-five feet of the road centerline. Setbacks shall be set on a case-by-case basis for Residential Planned Unit Developments.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

D. Structure Height.

No structure located within the R-1-A Residential District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed 35 feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

E. Sign Regulations.

The sign regulations set forth in Article 400 shall apply to the R-1-A Residential District.

F. Off-Street Parking.

The minimum requirements for off-street parking are set forth in Article 300 of this Ordinance.

These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-1-A Residential District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from view along any public street or walkway.

**Section 203. R-2 Residential District.**

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The R-2 Residential District is a low-density residential district for single-family dwellings, including manufactured homes and other related uses that contribute to the District’s residential character.

A. Permitted and Conditional Uses. Within the R-2 Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

All uses permitted by right in the R-1 Residential District shall be permitted in the R-2 Residential District.

Manufactured homes constructed after July 1, 1983, and provided all of the following conditions are met:

- Not less than 1,420 square feet of heated area above ground.
- The tongue, axles, removable towing apparatus, and transporting lights shall be removed after final placement on site.
- A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and covered access, shall be installed under the unit.
- The finished width of the base unit shall be not less than twenty-four feet.
- The pitch of the roof shall be a minimum vertical rise of one foot for each four feet of horizontal rise (1:4) and finished with shingles.
- The exterior siding shall consist predominantly of horizontal or vertical vinyl, aluminum, wood, or hardboard siding.

Residences occupied by more than two (2) unrelated persons, upon issuance of a Conditional Use Permit as described in Article 500.

B. Minimum Lot Size and Width.

Minimum lot size: minimum ½ acre if served by public water and sewer or minimum 1 acre if service is received from well or septic system.

Minimum lot width at building line: 100 feet for lots created after the effective date of this Ordinance except as permitted in Residential Planned Unit Developments; 50 feet for residential lots created prior to the adoption of this Ordinance.

C. Setbacks.

No building within the R-2 Residential District shall be erected within twenty-five feet of the property line of an adjoining ownership nor within twenty-five feet of the edge of the right-of-way line of

any public or private road. If no right-of-way line is defined among the public records of Jackson County, no building shall be erected within forty-five feet of the road centerline.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

D. Structure Height.

No structure located within the R-2 Residential District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed thirty-five feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

E. Sign Regulations.

The sign regulation set forth in Article 400 shall apply to the R-2 Residential District.

F. Off-Street Parking and Loading.

The minimum requirements for off-street parking and loading are set forth in Article 300 of this Ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-2 Residential District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully-displayed upon said vehicle, shall be screened from view along any public street or walkway.

**Section 204. R-3 Rural Residential District.**

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The R-3 Residential District is a low-density residential district for single and multi-unit dwellings.

A. Permitted and Conditional Uses. Within the R-3 Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

All uses permitted by right in the R-1-A Residential District shall be permitted in the R-3 Rural Residential District.

Multifamily units not to exceed 6 bedrooms per acre and with at least 1,500 square feet of heated area above ground per residential unit as a conditional use described in Article 500.

Customary home occupations are permitted under the following conditions:

- No evidence of the home occupation shall be visible or audible from outside of the dwelling except for a service truck or other equipment that is transported off-site for daily use.
- Home occupations shall not occupy more than fifty percent of the gross floor space of the dwelling and any accessory-use buildings.

- If the home occupation includes employees the use shall provide two off-street parking places.

B. Minimum Residential Lot Size and Width.

Minimum lot size: minimum ½ acre if served by public water and sewer or minimum 1 acre if service is received from well or septic system except as permitted through the conditional use permit process for Residential Planned Unit Developments.

Minimum lot width at building line: 75 feet for lots created after the effective date of this Ordinance except as permitted in Residential Planned Unit Developments; 50 feet for residential lots created prior to the adoption of this Ordinance.

C. Setbacks.

No building within the R-3 Rural Residential District shall be erected within twenty feet of the property line of an adjoining ownership nor within twenty-five feet of the edge of the right-of-way line of any public or private road. If no right-of-way line is defined among the public records of Jackson County, no building shall be erected within twenty-five feet of the road centerline. Setbacks shall be set on a case-by-case basis for the Residential Planned Unit Developments.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

D. Structure Height.

No structure located within the R-3 Rural Residential District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed 35 feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

E. Sign Regulations.

The sign regulations set forth in Article 400 shall apply to the R-3 Rural Residential District.

F. Off-Street Parking.

The minimum requirements for off-street parking are set forth in Article 300 of this Ordinance.

These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-3 Residential District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully-displayed upon said vehicle, shall be screened from view along any public street or walkway.

G. Bufferyard Required.

Bufferyards shall be compliant with Article 800 of the Ordinance.

## **Section 205. R-4 Rural Residential District.**

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The R-4 Residential District is a moderate-density residential district for single and multi-family dwellings.

A. Permitted and Conditional Uses. Within the R-4 Rural Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

All uses permitted by right and all conditional uses in the R-1-A Residential District shall be allowed in the R-4 Rural Residential District.

Multifamily units not to exceed 10 bedrooms per acre (on average) and with at least 1,500 square feet of heated area above ground per residential unit as a conditional use described in Article 500.

### **B. Minimum Residential Lot Size and Width.**

Minimum lot size: one acre except as permitted through the conditional use permit process for Residential Planned Unit Developments. Minimum lot width at building line: 75 feet for lots created after the effective date of this Ordinance except as permitted in Residential Planned Unit Developments; 50 feet for residential lots created prior to the adoption of this Ordinance.

### **C. Setbacks.**

No building with the R-4 Rural Residential District shall be erected within twenty feet of the property line of an adjoining ownership nor within twenty-five feet of the edge of the right-of-way line of any public or private road. If no right-of-way is defined among the public records of Jackson County, no building shall be erected within forty-five feet of the road centerline. Setbacks shall be set on a case-by-case basis for Residential Planned Unit Developments.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

### **D. Structure Height.**

No structure located within the R-4 Rural Residential District shall have more than three habitable stories, exclusive of basement, nor shall the height of the structure exceed forty-five feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

### **E. Sign Regulations.**

The sign regulations set forth in Article 400 shall apply to the R-4 Rural Residential District.

### **F. Off-Street Parking.**

The minimum requirements for off-street parking are set forth in Article 300 of this Ordinance.

These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-4 Rural Residential District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from view along any public street or walkway.

G. Bufferyard Required.

Bufferyards shall be compliant with Article 800 of the Ordinance.

**Section 206. M-1 Motel District.**

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The M-1 Motel District is for temporary housing and may include other mixed uses as described in this Section.

A. Permitted and Conditional Uses. Within the M-1 Motel District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

All uses permitted by right in the R-1 Residential District shall be permitted in the M-1 Motel District.

Motels with associated facilities including swimming pool, tennis court, laundry, fitness center, and administration/reception as a conditional use described in Article 500.

Cemeteries.

Residential Planned Unit Developments as a conditional use described in Article 500. Residences occupied by more than two (2) unrelated persons, upon issuance of a Conditional Use Permit as described in Article 500.

B. Minimum Residential Lot Size and Width.

Minimum lot size: two acres.

Minimum lot width at building line: 100 feet for lots created after the effective date of this Ordinance; 50 feet for residential lots created prior to the adoption of this Ordinance.

C. Setbacks.

No building within the M-1 Motel District shall be erected within ten feet of the property line of an adjoining ownership nor within ten feet of the edge of the right-of-way of any public or private road. If no right-of-way line is defined among the public records of Jackson County, no building shall be erected within twenty feet of the road centerline.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, and awnings shall be permitted to encroach on the setback area.

D. Structure Height.

No structure located within the M-1 Motel District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed thirty-five feet. For the purpose of this provision, the height of the structure will be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

E. Sign Regulations.

The sign regulations set forth in Article 400 shall apply to the M-1 Motel District.

F. Off-Street Parking and Loading.

The minimum requirements for off-street parking and loading are set forth in Article 300 of this Ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the M-1 Motel District.

Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from view along any public street or walkway.

G. Bufferyard Required.

Bufferyards shall be compliant with Article 800 of the Ordinance.

**Section 207. P-1: Professional Office District**

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The Professional Office District is intended to provide areas appropriate for professional offices and related activities and space for public and quasi-public uses.

A. Permitted Uses.

All uses permitted by right in the R-1 Residential District shall be permitted in the P-1 District.

This area is specifically designated for one practice or one group practice per building for such professionals, but not limited to, traditional and non-traditional medical and dental services, legal and accounting services, counseling services and cosmetology services. Disallowed activities include, but are not limited to commercial /retail activities relating to automotive related services including: service stations, sales and services; food related services including sales and restaurant activities; motel type services; and exclusively retail services.

B. Conditional Uses as described in Article 500

Establishments and activities not otherwise named herein which come within the spirit or intent of this district.

Residences occupied by more than two (2) unrelated persons

C. Minimum lot size and width

Minimum lot size: one acre

Minimum lot width at building line: 75 feet for lots created after the effective date of this Ordinance; 50 feet for residential lots created prior to June 17, 2002.

D. Setbacks.

No building within the P-1 District shall be erected within twenty-five feet of the property line of an adjoining ownership or within ten feet of the edge of the right-of-way line of any public or private road. If no right-of-way line is defined among the public records of Jackson County, no building shall be erected within twenty feet of the road centerline.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline or adjoining property line to the nearest projection of the building, including any eave, dormer, deck or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies and awnings shall be permitted to encroach on the setback area.

E. Structure height.

No structure located within the P-1 District shall have more than three habitable stories, exclusive of basement, nor shall the height of the structure exceed thirty-five feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

F. Sign regulations

The sign regulations set forth in Article 400 shall apply to the P-1 District.

G. Off-street parking.

The minimum requirements for off-street parking are set forth in Article 300 of this Ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the P-1 District.

H. Bufferyard Required.

Bufferyards shall be compliant with Article 800 of the Ordinance.

Permitted Uses	R-1	R-1-A	R-2	R-3	R-4	M-1	P-1
Single Family Homes – Frame Constructed	P	P	P	P	P	P	P
Modular Homes	P	P	P	P	P	P	P
Accessory Buildings	P	P	P	P	P	P	P
Horticultural Activities (non-commercial)	P	P	P	P	P	P	P
Home Occupations	P	P	P	P	P	P	P
Public Park, Playground, Golf Course, or Greenway	P	P	P	P	P	P	P
Yard Sales	P	P	P	P	P	P	P
Cemeteries	-	-	-	-	-	P	-
Hotels and Motels	-	-	-	-	-	C	-
Manufactured Housing	-	-	P	-	-	-	-



Retail Business	-	-	-	-	-	-	-
Commercial PUD	-	-	-	-	-	-	-
Residential PUD	-	C	-	C	C	C	-
Multi-Family – Low Density	-	-	-	C	C	-	-
Multi-Family – High Density	-	-	-	-	C	-	-
Professional and Business Offices	-	-	-	-	-	-	P
<i>NOTE: This Table summarizes information given in Sections 201 through 206 and shall not be used to make permit decisions. P=Permitted Use; C=Conditional Use Permit.</i>							

**Section 208. Mixed Use District**

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**Reserved for Future Mixed Use District**

**Section 209. Municipal Corporation and Public Utilities.**

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A. In addition to the permissible uses authorized within designated Districts, the construction, installation, or operation of distribution facilities necessary to furnish public utility services or municipal services by the Village or any public utility company serving or franchised to serve the community shall be permitted in all Districts. All distribution lines, including those for electricity, cable, and telecommunications, shall be buried underground within the corporate limits of the Village and extraterritorial jurisdiction areas.

B. Radio and television transmitting facilities and towers and similar equipment shall also be permitted in all Districts, provided the use is franchised and/or explicitly permitted by the Village Council, that masts use non-reflective paint and that equipment is co-located on regional masts. Said facilities shall not be governed by the height restrictions specified in the Ordinance and may be regulated by separate Ordinance.

C. Satellite dishes less than 2 meters in diameter are not considered a structure under the terms of this Ordinance and are exempt from the terms of this Ordinance.

D. All public exterior light fixtures, including street lights, shall be turned off between 10 PM and 6 AM.

**Section 210. Miscellaneous Prohibitions: Farm Animals and Firearms.**

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A. Farm Animals. No person shall keep poultry, livestock, or other farm animals within the jurisdiction of the Village.

If a violation is not corrected within thirty (30) days after notification, then the Village will contract with a service to remedy the situation and the owner of the animal(s) shall be responsible for paying for the service. If payment is not received within three (3) months the charges shall be added as a lien to the owner’s property taxes.

B. Firearms. The discharge of firearms, except for the defense of persons or property, is prohibited within the jurisdiction of the Village with the following exceptions:

- 1) Exception for Hunting: Hunting, with a valid State of North Carolina Hunting License, shall

be permitted in recognized hunting seasons. Game may only be taken with shotguns. For hunting purposes the use of rifles, handguns, and solid slugs is prohibited. No hunting shall be permitted within 300 feet of any dwelling.

- 2) Exception for Target Practice: Target practice is permitted in an area that has been approved, in writing, as safe for target practice (e.g., shooting into a mound of soil) by a law enforcement official and shall be permitted only on Saturdays from 12 PM until 4 PM.

C. Penalties for Violations: See Article 700, Sections 704 and 705. E.

D. Appeals: See Article 600, Section 602.

### **Section 211. Use of Land Within Right-of-Ways and Setbacks.**

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Except for the uses listed in this Section, no structure shall be placed within any road right-of-way or building setback. The following uses shall be permitted:

1. Mail boxes and newspaper tubes.
2. Fences.
3. Landscaping.
4. Utility equipment and related housing.
5. Private driveways, drainage structures, retaining walls.
6. Benches, gazebos not exceeding 100 square feet, and wildlife feeders and nesting boxes.
7. Statues and other artwork provided it is unrelated to a home occupation or commercial promotion.
8. Signs, as permitted in Article 400.

### **Section 212. Special Events Authorized by the Village Council.**

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The Village Council may authorize festivals or special events. These festivals or special events shall be time-limited and may temporarily depart from the provisions of this Ordinance.

### **Section 213. Neighborhood Appearance.**

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A. Litter Control.

- 1) All property shall be kept clean of litter. Litter is defined as a “disorderly accumulation of objects, carelessly discarded” which includes but is not limited to such items as cans, wrappers, cartons, trash, and abandoned or “junk” vehicles. Also prohibited is the placing, discarding, disposing, or leaving of any trash, refuse, or garbage upon a street or highway located within the Village or upon property owned or operated by the Village unless such trash, refuse, or garbage is placed in a designated location or container for removal by a specific garbage or trash service collector.

After a notice of violation has been served the violator has seven days to remove the litter. Each day that the litter remains unmoved constitutes a separate offense; however, once the offending party is notified as provided herein there is no further obligation of the Village to give repeated notices as set forth.

- 2) The owner of every premise shall be responsible and liable for actions which violate this Article. This shall in no way relieve tenants or guests from liability for any violations of this Section.
- 3) This Section applies to all developed and undeveloped property whether owned, leased, or otherwise occupied. The lessor and lessee will be notified concurrently and are jointly and severally liable for its enforcement.
- 4) It is not a violation of this Ordinance if a person places leaves and/or brush on unimproved property or if the leaves and/or brush accumulates by natural processes.

B. Unightly Appearance and Unsafe Property. Things which tend to depress the fair market value of adjacent property.

- 1) Allowing unattended vehicles or trailers to remain on a public right-of-way for over thirty (30) days.

If the aforementioned violation is not corrected within fourteen (14) days after notification, then the Village will contract with a towing service to remedy the situation and the owner of the vehicle and/or trailer shall be responsible for paying for the service. If payment is not received within three (3) months the charges shall be added as a lien to the owner's property taxes. The Village has determined that violation of this Ordinance is a "public health nuisance" and may be abated as provided in North Carolina General Statute 160A.

- 2) Allowing weed or brush to grow uncontrollably on a public right-of-way for more than thirty (30) days. This specifically pertains to North Country Club Drive, South Country Club Drive, and Cave Springs Road. The phrase "right-of-way" includes the right-of-ways specifically identified in property deeds as well as those signed over to the State of North Carolina Department of Transportation.

It is the owner's responsibility to maintain this property, in some cases the State of North Carolina may have a right-of-way but does not own the property. If the aforementioned violation is not corrected within thirty (30) days after notification, then the Village will contract with a landscape caretaker to remedy the situation and the owner of the property shall be responsible for paying for the service. If payment is not received by the Village for correcting the violation within three (3) months, the charges shall be added as a lien to the owner's property taxes. The Village has determined that violation of this Ordinance is a "public health nuisance" and may be abated as provided in North Carolina General Statute 160A.

- 3) Allowing unsightly and unsafe property to exist.

If the aforementioned violation is not corrected within fourteen (14) days after notification, then the Village will contract with a third party to remedy the situation and the owner of the

property shall be responsible for paying for the service. If payment is not received by the Village for correcting the violation within three (3) months, the charges shall be added as a lien to the owner's property taxes. The Village has determined that violation of this Ordinance is a "public health nuisance" and may be abated as provided in North Carolina General Statute 160A.

- 4) The owner of every premise shall be responsible and liable for the action of his/her tenants and guests when such actions violate this Article. This shall in no way relieve such tenants or their guests from liability for such violations of this Section.
- 5) Penalties for violations: See Article 700, Sections 704 and 705. 6.
- 6) Appeals: See Article 600, Section 602. 7.
- 7) Grace period for compliance: Owners and/or tenants shall have three (3) months from the date this Ordinance is approved by the Council of The Village of Forest Hills to comply. If compliance does not occur the owners and/or tenants will be considered as noncompliant and citations will be issued.

C. Enforcement. In the event of a violation, the owner shall be provided a citation by certified mail from the Ordinance Administrator (or Legal Counsel representing The Village of Forest Hills) and the owner shall have one (1) week after receiving the citation to remove the litter. If the litter is not removed, a second notice shall be issued and civil penalties shall be levied if the litter problem is not remedied within seven (7) days. No property shall be "grandfathered" for this Ordinance. The Village has determined that violation of this Ordinance is a "public health nuisance" and may be abated as provided in North Carolina General Statute 160A-193.

#### **Section 214. Pet Restrictions and "Leash Law."**

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A. Leash Law. No person owning, harboring, or having custody and control of a dog shall permit the dog to be at large in the Village of Forest Hills at any time. Dogs must be controlled and under the supervision of their owners, or some other person having custody and control of the dog, at all times by a leash, or the dog must be restrained (e.g., caged, chained, or contained within the bounds of an operating "invisible electric fence"), on the owner's or custodian's property.

B. No person owning, harboring, or having custody and control of a dog or other animal shall permit or allow such a dog or other animal to leave feces on private property of someone other than the owner within the jurisdiction of the Village; but if such animal deposits feces the owner or the individual controlling/caring for the animal(s) shall remove and dispose of such feces in an appropriate manner.

This paragraph (Section 212. B.) does not apply to a guide dog accompanying a disabled person.

C. No person shall allow any domestic animal or bird under their control to make frequent, loud, or continued noises that annoy or disturb any persons in the Village, especially between 11 PM and 7 AM.

D. Penalties for violations: See Article 700, Sections 704 and 705.

E. Appeals: See Article 600, Section 602.

**Section 215. Disturbing the Peace: The Premise of Which is Based upon “Common Sense.”**

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A. Purpose. To protect the tranquility and well-being of the community by the reasonable prevention of disturbing noises is within the power and jurisdiction of The Village of Forest Hills to control.

B. Responsible Persons. The owner of every premises shall be ultimately responsible and liable for the actions which violate this Article. This shall in no way relieve tenants or guests from liability for any violations of this Section. Landlords will be notified if tenants do not comply.

C. Noises Prohibited. It shall be unlawful for any person to make unreasonable or unusually loud or prolonged or obnoxious noise or any noise which annoys, disturbs, frightens, injures, or endangers citizens within the limits of the jurisdiction of the Village between the hours of 11 PM and 7 AM. The following acts, among others, are declared to be loud and disturbing noises in violation of this Ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- 1) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle, except as a danger signal, so as to create any unreasonable loud or harsh sound, or the sounding of such device for an unreasonable period of time, or the use of a siren upon any vehicle other than the police, fire, or other emergency vehicle or equipment.
- 2) The using, operating, playing, permitted to be played, used, or operated of any television set, radio-receiving set, musical instrument, phonograph, loudspeaker or sound-amplifying device for the producing of sound in such a manner or with such volume as to annoy or disturb the neighboring inhabitants or any person in any dwelling, motel, hotel, or any other type of residence or any person in the Village.
- 3) Yelling, shouting, screaming, or singing within the Village between the hours of 11 PM and 7 AM, or at any time or place in such manner as to annoy or disturb the neighboring inhabitants or any persons in the Village.
- 4) The use of any automobile, motorcycle, or vehicle out-of-repair, so loaded, or in such a manner as to create loud grating, grinding, rattling, or other obnoxious and disturbing noise (e.g., no muffler).
- 5) Noisy parties.
- 6) Security alarms twenty (20) minutes after notice to or by law-enforcement personnel.

D. Temporary Waiver of Disturbing the Peace. Any person may apply to the Ordinance Administrator for a temporary waiver of this Ordinance for a specific reason or event (e.g., athletic events or personal or official gatherings). The waiver may or may not be granted by the Ordinance Administrator.

E. Penalties for violations: See Article 700, 704 and 705.

F. Appeals: See Article 600, Section 602.

**Section 216. Emergency Management. – see Jackson County**

**Section 217. Watershed Protection. – see Jackson County**

**Section 218. Flood Damage.** – see Appendix I

**Section 219. Sediment Control.** – see Appendix I

**Section 220. Cell Tower Ordinance.** – see Appendix I

**Section 221. Residential Occupancy Controls**

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A. Any residential dwelling unit occupied by a group of more than two (2) unrelated persons not acting as a family, as defined in the Ordinance shall contain at least one (1) bedroom for each two (2) persons residing in the dwelling unit.

B. Residential dwelling units which are occupied by a family, as defined in the Ordinance, shall be permitted as a principal use in all zoning districts and will not be limited to the number of persons in the family.

C. Residential dwelling units which are occupied by two (2) or fewer unrelated persons shall be permitted as a principal use in all zoning districts.

D. Residential dwelling units which are occupied by more than two (2) unrelated persons shall only be permitted as a principal use in the R-3 and R-4 zoning districts and as a conditional use in the R-1, R-1A, R-2, M-1, and P-I zoning districts.

E. The residential occupancy controls described in Sub Sections [b] through [d] above are illustrated in the following Table of Residential Occupancy:

Number of Persons	Relationship	R-1	R-2	R-3	R-4	R-1A	M -1	P-1
Unlimited	Family	P	P	P	P	P	P	P
>2	Non-family Unrelated Persons	C	C	P	P	C	C	C

## **ARTICLE 300. OFF-STREET PARKING AND LOADING**

**Section 301. Section 301. Applicability.**

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Off-street automobile storage or parking shall be provided on all parcels consistent with Section 302.

**Section 302. Parking Regulations.**

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A. All rental property shall have a paved and marked parking site for each single bedroom or two or more paved and marked parking sites for each additional bed.

If the size of the parcel of property makes it impossible to comply then the landowner shall seek a variance in order to comply before the grace period is over.

GRACE PERIOD FOR COMPLIANCE: Owners shall have one year from the date this Ordinance is approved by the Council of The Village of Forest Hills to comply. If compliance does not occur the owners will be considered as noncompliant and citations will be issued.

B. No parking shall be allowed on any roads within the town boundaries, consistent with N. C.G.S. § 20-161. Removal of illegally-parked vehicles shall be enforced by towing. The owner of the vehicle will be responsible for any towing fee.

C. Penalties for violations: See Article 700, Sections 704 and 705.

D. Appeals: See Article 600, Section 602.

### **Section 303. General Provisions.**

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A. Each parcel shall provide adequate space for turning so that no vehicle shall be required to exit from the premises by backing into the thoroughfare.

B. Other than for medical, fire, and public safety emergency situations, vehicles shall not stop or park on any street and block the flow of traffic or the movement of vehicles from a driveway or designated parking area.

C. Parking requirements for Residential Planned Unit Development shall be set through the condition use permit process described in Article 500.

## **ARTICLE 400. SIGN REGULATIONS.**

### **Section 401. Purpose.**

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The Village of Forest Hills is located in a unique mountain and natural scenic setting. It is, therefore, the desire and purpose of the Village Council of The Village of Forest Hills to regulate signs and outdoor advertising throughout the zoning jurisdiction of The Village of Forest Hills; to limit the size, height, and location of signs and outdoor advertising erected therein; to eliminate hazards to pedestrians and motorists brought about by distracting sign displays; to ensure orderly development; to protect and stabilize property values; to preserve the scenic natural environment by allowing signs which are consistent with an attractive Village appearance; to promote public health, prosperity, safety, and welfare; and to establish procedures through which these purposes can be fulfilled.

### **Section 402. Exempt Signs.**

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The following signs are exempt from the requirements herein:

A. All classes of government signs including, but not limited to, traffic, health, and public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; historical markers or monuments; any community service sign approved by The Village of Forest Hills.

B. Temporary lighting and displays as part of customary holiday decorations.

C. Signs posted on private property related to trespassing or public safety, such as danger from

animals. However, said signs shall not exceed 8 square feet in size.

D. Signs in the M-1 Motel District denoting a product being sold in a vending machine, telephone booth, or newspaper stand, and actually located on same, but cannot be larger than the machine.

E. Signs displayed on the inside of a structure that are not visible from any public street or walkway.

F. Signs attached to commercial vehicles.

G. For sale signs on private vehicles.

H. Resident names, newspaper names, and house numbering on mail boxes, newspaper tubes, and houses.

I. Signs displayed in the M-1 Motel District that are sponsored by municipal, school, civic, and other non-profit organizations.

J. Commercial signs in the M-1 Motel District indicating charge card information or general instructions, restrictions, etc. thereof.

### **Section 403. Prohibited Signs.**

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The following signs are prohibited within the zoning jurisdiction of the Village of Forest Hills:

A. Roof Signs. Any sign which is erected on a roof or which extends in height above the parapet or roof line of the building on which the sign is erected.

B. Simulated Traffic Signs and Obstructions. Any sign which may be confused with or which obstructs the view of any authorized traffic signal or traffic sign or extends into the public right-of-way, obstruct the sight-distance triangle, as determined by the North Carolina Department of Transportation, at any street intersection, or in any way constitute a hazard to traffic.

C. Building Obstructions. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any building.

D. Signs Posted within Public Rights-of-Way. Except for governmental signs described in Section 402, residential signs described in Sections 404 and 405 and real estate signs described in Section 404, any sign that is posted on utility poles, other officially-placed signs, trees, rocks, ground, etc. within the public right-of-way. In the event a right-of-way is not defined among the public records of Jackson County, this prohibition shall apply to an area within 15 feet of the edge of the wear surface of any public thoroughfare.

E. Flashing Signs. Any sign or device displaying flashing lights, intermittent lights, or lights of changing degrees of intensity.

F. String and Tube Lighting. Any illuminated tubing or string of lights outlining property lines or open sales areas, roof lines, doors, windows, or wall edges of any building and neon lighting used to display words or logos related to commercial businesses except for customary holiday decorations described in Section 402.



G. Illuminated Signs in Proximity to Residential Zoning Districts. Any sign illumination between the hours of 10 PM and 6 AM if located within 200 feet of a residential zoning district.

H. Billboard Advertising. Any sign that is larger than 32 square feet used to attract attention to an object, person, product, institution, organization, business, service event, or location. This does not include governmental traffic, directional or regulatory signs, or notices.

I. Portable Signs. Any sign that is designed to be moved on its own chassis or that is not permanently affixed to a building, stationary structure, or the ground or that is not designated to be permanently affixed to a building, structure, or the ground. This shall not apply to signs that are exempt from this Ordinance in Section 402 and to any category of temporary sign described in Section 404.

J. Animated and Moving Signs. Any moving sign or device, permanent or semi-permanent, to attract attention, all or any part of which moves by any means, including fluttering, rotating, or otherwise moving devices set in motion by the atmosphere, or by mechanical means, such as pennants, flags, propellers, or discs, whether or not any said device has a written message; traditional barber poles located at barber shops, however, shall not be prohibited.

#### **Section 404. Regulated Signs Not Requiring a Permit.**

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The following signs are permitted and do not require a sign permit, provided each sign conforms to the requirements of this Article:

##### **A. Temporary Signs.**

- 1) Commercial signs in the M-1 Motel District on the interior or exterior of glass, provided they do not exceed 35% of the area of any given window or glass door, and are not illuminated except by normal interior business lighting or by soft indirect lighting of an entire window unit.
- 2) Not more than 2 non-illuminated temporary on-premise signs, provided that the surface area of each sign does not exceed 8 square feet in surface area per building and are not placed within the public right-of-way, or within 15 feet of any road wear surface if no right-of-way is defined.
- 3) Residential yard signs, not to exceed 2 non-illuminated signs per premises, provided they do not exceed 8 square feet in surface area per sign face, and the maximum time for display does not exceed 48 hours.
- 4) Signs used prior to and during construction to identify the name of a new project and/or the principle contractor or developer, provided they meet the following requirements:
  - Each project site shall have no more than one identification sign with one sign face not to exceed 8 square feet.
  - Identification signs shall be either attached to the building under construction or affixed to a secure temporary post, and located out of the public right-of-way or beyond 15 feet of any road wear surface if no right-of-way is defined.

- 5) Flags, badges, or insignia of government or any charitable, civic, fraternal, patriotic, religious, or other non-profit organization shall be limited in size to no more than 32 square feet.

B. Permanent Signs.

One permanent sign for cemeteries, not exceeding 8 square feet nor more than 5 feet in height.

**Section 405. Regulated Signs Requiring a Permit.**

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A. Temporary Signs. – none permitted.

B. Permanent Signs.

The following permanent signs are permitted, subject to the issuance of a permit by Jackson County. Application for a permanent sign shall be made on the proper form, obtainable from the Jackson County Planning Office. The application shall include the name and mailing address of the owner of the sign, a drawing of the sign indicating its size and height, a site plan indicating the sign location on the premises and its relation to any adjacent rights-of-way, the proposed method of illuminating the sign, if any, and any other information Jackson County deems necessary to ensure compliance with these regulations. Any substantial change in the copy of a sign, such as change of the name of a business, shall require application for a new Sign Permit. No permit shall be issued in the event of such a change in copy unless the sign complies with the current provisions of this Article.

- 1) Residential Zoning Districts. Signs permitted through the conditional use permit process for a Residential Planned Unit Development.
- 2) Businesses in the M-1 Motel District. Each business in the M-1 Motel District is permitted the following signs:
  - One Free-Standing On-Premise Sign not to exceed 6 feet in height, not more than 20 square feet per sign face and may be lit by a shielded indirect white or amber light of reasonable intensity that is directed solely at the sign face.
  - On-site directional signs not to exceed 2 square feet per sign.
  - Hotels may establish one off-premise sign within 300 feet of the right-of-way of Highway 107, not more than 64 square feet and may be lit by a shielded indirect white or amber light of reasonable intensity that is directed solely at the sign face.

**Section 406. Sign Construction, Design, and Maintenance.**

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A. All signs, except those protected by shatter-proof glass, plexiglass, or other secure transparent cover, shall be constructed of materials that will not rapidly deteriorate, fade, fall apart, or in any way become a hazard to public health, safety, and general welfare.

B. Any sign permitted under this Ordinance shall comply with applicable requirements of the N.C. State Building Code, National Electrical Code, and other applicable federal, state, or local codes.

C. All signs shall be securely attached to a building, wall, or permanent posts and its supports, frames, guys, anchors, and electrical equipment shall be securely fastened and placed to withstand adverse weather conditions.

D. All signs, unless otherwise stated or implied, shall have no more than two faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.

E. All signs shall be kept free from defective or missing parts or peeling paint. The Village Ordinance Administrator shall possess the authority to order the painting, repair, or alteration of a sign that constitutes a hazard to the public health, safety, or general welfare due to inadequate maintenance, dilapidation, or obsolescence. Notice of such repair shall be given to the owner by personal service or registered mail, return receipt requested.

F. The immediate premises around a sign shall be kept free from litter and debris. However, no person other than persons authorized by the Village shall damage, trim, destroy, or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of increasing or enhancing the visibility of a sign; nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees and shrubs are located.

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#### **Section 407. Non-Conforming Signs.**

A. General. Any sign legally in existence prior to the effective date of this Ordinance, or any applicable amendment thereto, which does not satisfy the requirements of this Ordinance, is declared non-conforming. The eventual elimination, as expeditiously and fairly as possible, of non-conforming signs is as much a subject of health, safety, and welfare as is the regulation of new signs.

B. Alterations and Repairs to Non-Conforming Signs. Non-conforming signs shall not be moved, altered, enlarged, or changed in any manner to increase the degree of non-conformity. Ordinary maintenance, such as repainting or repairing, shall be permitted for non-conforming signs. However, no substantial change in the copy of the sign, such as change in the business name, shall be permitted. Moreover, if, within any twelve-month period, alterations or repairs are anticipated to cost in excess of fifty percent of the physical assessed value of the existing sign, such sign shall be removed or made to conform to the current regulations of this Ordinance.

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#### **Section 408. Illegal Signs.**

A. Discontinuance of Use. Whenever the use of a building or premises is discontinued by a business for reasons other than a normal seasonal shutdown for a period of 30 days, any signs pertaining to that business shall be removed within 30 days of the discontinuance of use. The Village Ordinance Administrator shall notify the owner at the last known address that said signs are a violation of this Ordinance and must be removed within 30 days; any signs not removed within that period may be removed by the Village at the owner's expense.

B. Signs Located Within a Public Right-of-Way. Consistent with Section 403(D), any sign found located within a public right-of-way shall be removed by its owner within 30 days of written notice thereof. If ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by

the Village Ordinance Administrator stating the need to remove it within 30 days, after which, the Village may remove the sign at the owner's expense. The Village shall remove temporary signs upon discovery.

C. Signs Erected Without a Permit. The owner of any sign erected after the effective date of this Ordinance without a permit shall obtain a permit for the sign and otherwise ensure that it complies with these regulations. Signs that do not comply with this process shall be removed by either the owner or the Village at the owner's expense within 24 hours of notification by Jackson County.

D. Signs not meeting the requirements contained in Section 406 shall be brought into conformance or removed by the owner within 90 days of written notice thereof. If ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by Jackson County stating the need to bring the sign into compliance or remove it within 90 days, after which, the Village may remove the sign at the owner's expense.

## **ARTICLE 500. CONDITIONAL USE PERMITS AND PLANNED UNIT DEVELOPMENTS**

### **Section 501. Conditional Use Permits.**

#### **Section 502. Applicability.**

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A conditional use permit shall be required for each of the following uses:

A. Motels with associated facilities including swimming pool, tennis court, laundry, fitness center, and administration/reception.

B. Residential Planned Unit Developments Section 502.

C. Low-density multifamily units not to exceed 6 bedrooms per acre and with at least 1,500 square feet of heated area above ground per residential unit.

D. High-density multifamily units not to exceed 10 bedrooms per acre and with at least 1,500 square feet of heated area above ground per residential unit.

E. Establishments and activities not otherwise named herein which come within the spirit or intent of the P-1 district and the Ordinance.

F. Residences in the R-1, R-2, R-1A, M-1, or P-1 districts occupied by more than two (2) unrelated persons

#### **Section 503. Procedure.**

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A. All applications for a conditional use permit shall be addressed and submitted to the Jackson County Planning Office . Applications for a conditional use permit shall be made on a proper form obtainable from the Jackson County Planning Office. When deciding conditional use permits the Village Council shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for Council to issue such permits. For the purposes of this section, vacant positions on the Council and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members' for calculation of the requisite majority. In the event a request for a conditional use permit also involves

the subdivision of property as defined in the Jackson County Subdivision Ordinance the conditional use permit shall be issued simultaneously using the procedures for approving a subdivision. Said procedure shall incorporate all standards and criteria for the conditional use described in the Zoning Ordinance including 501.2(C). In the event a request for a conditional use permit does not involve the subdivision of property the applicant shall provide the information listed below. A request for a conditional use permit shall in all cases require a public hearing.

- 1) A site plan, drawn to a scale of at least one inch to forty feet, indicating the property lines of the parcel upon which the use is proposed; the identity of neighboring properties; any adjacent streets; any existing or proposed structures; showing setbacks to rights-of-way and property lines; parking areas showing the number and arrangement of parking spaces and driveway entrances; utilities and surface water drainage; and significant natural features, such as wooded areas, streams, or ponds. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
- 2) Elevations and a floor plan, indicating dimensions of the building, gross floor space, number of seats, or any other applicable information.
- 3) A complete and detailed description of the use proposed, together with any other pertinent information that the applicant feels would be helpful to the Village Council in considering the application.
- 4) A plan showing the size, type, and location of any signs proposed to be erected in conjunction with the use.
- 5) A complete construction schedule, including the date upon which construction is expected to begin and the date within which it is expected to be completed. The Village Council may, in its sole discretion, waive the foregoing requirements where, for example, only minor construction, minor changes to parking areas, or changes only to the use of existing buildings is contemplated. The Village Council may at any time require the submission of additional information deemed necessary to evaluate the application under the terms of this Ordinance.

B. Upon receipt of an application for a conditional use permit, the Village Council shall call a public hearing and shall give notice as required by law. At the hearing, the applicant or designated representative thereof shall appear for the purposes of offering testimony and recommendations as to the application, and the Village Council shall also allot reasonable time for the expression of views of any member of the public attending the meeting in person or represented by an attorney. The Village Council may also ask the Jackson County Planning Office to review the application and make recommendations.

C. The Village Council shall grant and issue the conditional use permit if and only if it finds the following:

- 1) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved;
- 2) The use meets all required conditions and specifications;

- 3) The use will not substantially injure the value of adjoining or abutting property or, in the alternative, the use is a public necessity; and
- 4) The location and character of the use, as developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town and its environs.

D. Within 7 days after making the decision required of it, the Village Council shall issue its written ruling, either granting or denying the conditional use permit, and deliver copies thereof to the Jackson County Planning Office. The Jackson County Planning Office shall send a copy of the written ruling to the applicant or his representative, but the failure to do so will not affect the ruling.

E. All construction approved pursuant to a conditional use permit shall be completed in accordance with the construction schedule as approved by the Village Council. In the event that a significant departure from the construction schedule occurs during the project, the applicant may appear before the Village Council and request an amendment of the conditional use permit. The Village Council may extend the construction schedule only upon a finding that delays in construction have been caused by, or are expected to be caused by, circumstances beyond the control of the applicant. Unless the construction scheduled is extended by amendment of the conditional use permit, failure to complete construction within the approved time shall be considered a violation of the conditional use permit, and subject to the sanctions.

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#### **Section 504. Additional Conditions as to Use.**

If the conditional use permit is approved by the Council may, in issuing a conditional use permit, designate additional conditions and requirements in connection with the application as will, in its opinion, assure that the use in its proposed locations will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted and on the certificate of the conditional use permit (or on the plans submitted therewith). All conditions so imposed shall run with the land and shall be binding upon the original applicant, as well as the applicant's heirs, successors, or assigns, during the continuation of the use conditionally permitted or any similar use.

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#### **Section 505. Expiration of Conditional Use Permits.**

A conditional use permit issued in accordance with this Section shall expire if the applicant does not obtain a zoning certificate of compliance for such use within six months from the date of the decision. If, after commencing work under a conditional use permit and prior to completion of the entire project, work is discontinued for a period of twelve months, the conditional use permit shall become void, and no work may be performed until a new conditional use permit has been issued. If, after issuance of a Certificate of Compliance for a conditional use permit shall become void, and the use may not be re-established until a new conditional use permit has been issued. When a conditional use permit expires, the Village Council shall treat reapplication for a new conditional use permit in the same manner as any other application, and the provisions of the Ordinance currently in effect shall be applicable.

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#### **Section 506. Residential Planned Unit Developments.**

A. Purpose and Intent. The purpose and intent of the Residential Planned Unit Development (RPUD) is to provide a creative and aesthetic approach for residential development to be incorporated within a

single site plan. The development will provide a level of residential density suited to its location and the capacity of the land and utilities available at the site. The RPUD encourages the clustering of development and requires the identification and preservation of conservation areas and the permanent preservation of open space. The requirements established in this section allow a broader range of flexibility and individuality in site design, types of residential dwellings and architectural styles, while providing for the installation of adequate vehicular parking and access, pedestrian facilities, utilities, landscaping, conservation areas and open space, screening, and other conditions which will insure the safety and aesthetic environment of the development for its residents and adjacent properties.

B. Uses Permitted. Within a RPUD, a building or land shall be used only for the following uses:

- 1) Detached single-family residential uses, excluding manufactured homes.
- 2) Accessory uses and structures.
- 3) Open space, including recreational uses.

C. Minimum Size. An RPUD shall have a minimum area of six-and-one-half (6.5) contiguous acres.

D. Design Requirements.

- 1) Development Density. The total residential density for the RPUD shall not exceed the maximum density of one dwelling unit per two acres. However, consistent with the terms and conditions of a conservation subdivision, a RPUD may request an increased density not to exceed one dwelling unit per 1.62 acres.
- 2) Dimensional Requirements. All buildings and structures shall provide a side and rear setback equal to twice the setback required for the district in which the development is proposed to be located along the exterior boundaries of the project property. Within the RPUD, setbacks from internal streets and other internal yard requirements are waived. The total building footprint of all principle and accessory structures shall not exceed twenty-five percent (25%) of the buildable acreage of the proposed site. The maximum building height of all structures in the RPUD shall not exceed the maximum height of the district in which it is located.
- 3) Water and Sewer Service. A RPUD shall have an approved water and sewage disposal system.
- 4) Soil Erosion and Sedimentation Control Plan. Prior to any regulated land-disturbing activities on a site proposed for a RPUD, a soil erosion and sedimentation control plan shall be submitted to and approved by either the N.C. Department of Environment and Natural Resources or the Jackson County Sediment Control Office for the phase or portion of the site to be disturbed.
- 5) Storm Water Drainage. Storm water drainage facilities shall be designed by a licensed engineer and constructed to prevent on-site and downstream erosion and sedimentation and designed to follow existing natural drainage. The facilities shall be designed to prevent flooding or standing water and to reduce the impact of storm water discharge into identified conservation areas. Unless otherwise approved, storm water drainage discharge points shall

be located within the site and discharged through vegetated areas into existing natural drainage. Storm water may not be allowed to flow over unprotected vegetated areas, it must be contained as it flows to natural drainage areas. Where proposed storm water drainage cannot be designed to follow natural drainage, new or alternative systems shall be designed and constructed to prevent erosion and sedimentation problems within the proposed development and on adjacent properties. New storm water drainage facilities shall be designed for a 25-year, 24-hour storm. The system shall be designed, constructed, and maintained to discharge storm water from the site in a manner that does not exceed the predevelopment storm water discharge. Where retention or detention facilities are used, a landscaping plan for screening these facilities shall be submitted. The storm water drainage plan shall incorporate the entire project site. If damage occurs, due to the unnatural flow of storm water, the owner of the property where the flow of storm water originates shall be responsible for restoring the damaged property.

- 6) Streets. All streets shall be constructed to N.C. Department of Transportation Powell Bill Fund standards and offered for dedication. All streets proposed for private use as herein defined shall submit proposed design standards and agreements for ownership and maintenance of said private streets.
- 7) Parking. All parking for residential units shall be provided off-street on the same premise.
- 8) Outdoor Lighting and Signage. The lighting fixtures for the safety of drives, service areas, and pedestrian walks shall be designed in keeping with the scale and architectural harmony of the project. Outdoor lighting fixtures shall be designed and located as to prevent light from shining directly on vehicular traffic or adjoining property. The subdivision may place a minimum number of signs indicating the name of the subdivision using ground signs not more than 32 square feet in size with stone foundations, sand-blasted lettering, earth-tone colors, and shielded indirect white or amber light of reasonable intensity that is directed solely at the sign face.
- 9) Landscape Planning. Within a RPUD, a landscaping plan shall be considered a required element of the project. The landscaping plan shall be in compliance with Article 800 of the Ordinance.
- 10) Bufferyard. Bufferyards shall be compliant with Article 800 of the Ordinance.
- 11) Electrical Service. All exterior wiring shall be placed underground unless an alternative placement is required for safety. All exposed utility service units shall be screened by fencing, evergreen plantings, and walls. The plantings shall consist of two rows of native species evergreen and deciduous trees, planted in a staggered pattern. The rows shall be a minimum of eight feet apart and the trees shall be planted with eight-foot spacing intervals. The minimum height of the trees at the time of the planting shall be eight feet, as measured from the top of the root ball. The trees shall be maintained and all dead materials shall be replaced by the next growing season.
- 12) Solid Waste. Exterior solid waste containers, visible from adjacent properties or rights-of-way shall be located and maintained in a side or rear yard area within an enclosed, opaque fence or structure.



- 13) Design. RPUDs shall comply with Article 700 of the Ordinance.
- 14) Pedestrian Access. Pedestrian trails and walks shall be provided to connect parking areas and open spaces within the development. These pedestrian trails or walks shall connect with pedestrian trails or walks on adjacent properties.
- 15) Open Space Preservation. Natural, landscaped, and agricultural open space shall be permanently preserved on the site of a conservation subdivision in an amount not less than twenty percent (20%) of the gross acreage of the site. The open space shall be designated on the site plan and shall be accompanied by a recordable instrument dedicating the permanent ownership and maintenance of the open space in a manner acceptable to the Village Council.

E. Conveyance of Common Areas and Facilities. All areas and facilities, including but not limited to roads, parking areas, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage, and pick-up facilities, within and part of the development proposed for a common ownership shall be guaranteed by restrictive covenants running with the land which describe the areas and facilities and their maintenance and improvement.

F. Maintenance of Common Areas and Facilities. Prior to approval of the site plans, the applicant shall submit the legally-enforceable instrument or instruments that set forth the means for permanent maintenance of all common areas and facilities in the development, including but not limited to roads, parking spaces, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage and pick-up facilities. The applicant shall create an owner's association and submit copies of the by-laws, rules, and regulations. The instrument shall contain the following provisions:

- 1) The association shall be established prior to the sale of lots or units;
- 2) Open space areas shall be reserved in perpetuity;
- 3) The association shall be responsible for liability insurance, local taxes, and the maintenance of all designated common facilities which may include streets, open space and recreational facilities, pedestrian facilities, storm water facilities, and easements;
- 4) The association shall provide for the payment of member dues for the pro rata share of the cost. The assessment levied by the association may become a lien on the property;
- 5) The association shall have the right to periodically adjust the assessment to meet the changing needs of the development;
- 6) In the event the association dissolves for any reason including bankruptcy, the title for all open space areas shall pass to The Village of Forest Hills, and the owners of said property shall be assessed charges to cover all insurance and maintenance fees.

## **ARTICLE 600. CONDITIONAL ZONING STANDARDS**

### **Section 601. Purpose**

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Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice

where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Village of Forest Hills Guiding Land Use Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning, or desires increased flexibility in the use and/or development of the property.

Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined Ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project.

For each General Use Zoning District, there is a corresponding Conditional Zoning District (CD) which corresponds to each of the districts authorized by Article 200 as follows: R-1-CZ, R-1-A-CZ, R-2-CZ, R-3-CZ, R-4-CZ, M-1-CZ, and P-1-CZ.

Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land uses are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a use by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted Village of Forest Hills Guiding Land Use Plan, and adopted district.

## **Section 602. Review Process**

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The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in order to achieve the purpose of this Section and the recommendations of the Village of Forest Hills Guiding Land Use Plan.

The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner.

If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of the Ordinance that the authorization of such Conditional Zoning District shall be null and void and of no effect and that the property will revert back to its original zoning or, where necessary, proceedings shall be instituted to rezone the property to its previous zoning classification.

A. Plans and other information to accompany petition. Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.

B. Approval of conditional zoning district. Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general use district zoning decisions. Conditional Zoning District decisions shall be made in consideration

of identified relevant adopted land use plans for the area, including, but not limited to, the Village of Forest Hills Guiding Land Use Plan and other land-use policy documents.

C. Conditions to approval of petition. In approving a petition for the reclassification of property to a Conditional Zoning District, the Village of Forest Hills Planning Board may recommend, and the Village Council may request that reasonable and appropriate conditions be attached to the approval of the petition.

Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to Village ordinances and the Guiding Land Use Plan or other land use policy, that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the impact of the proposed use on surrounding property, support facilities (such as parking areas and driveways), pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, provision of open space, and other matters that the Village Council may find appropriate or the applicant may propose. Such conditions to approval of the petition may include dedication to the Village, County, State, or public entity, as appropriate, of any rights-of-way or easement for roads, pedestrian facilities, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Village Council. Only those conditions mutually approved by the Village Council and the applicant may be incorporated into the petition.

D. Effect of approval. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Village of Forest Hills Official Zoning Map. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to **Section 602.E. Alterations to Approval**. Changes to the site plan layout shall not increase the number of structures. Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example, "R-1-CZ").

E. Alterations to approval. Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning Map and shall be processed in accordance with the procedures of the Ordinance.

The Jackson County Planning Director or his/her designee shall recommend an amendment to an approved site plan that shall be reviewed by the Village of Forest Hills Planning Board. The Village Council shall have the authority to approve the recommended amendment to an approved site plan.

The standard for recommending, and approving or denying such an amendment, shall be that the change does not materially alter the site plan or its conditions and that the change does not have a material impact upon abutting properties. Any recommendation and approval must be in writing stating the grounds for approval or denial. For nonresidential development, materiality shall constitute an increase in the intensity of the development is limited to ten percent of the approved structure size or 1,000 square feet, whichever is less. For residential development, increases in density are limited to ten percent of the development or no more than ten dwelling units, whichever is less. The Jackson County Planning Director

and Village Council, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Village of Forest Hill Planning Board consideration and a public hearing is deemed appropriate under the circumstances. If the Jackson County Planning Director or Village Council declines to exercise this authority, the applicant may request a map amendment as permitted **Article 1000.1006. Ordinance Amendment**.

F. Review of approval of a conditional zoning district. It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Village Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Village Council a report, which may recommend that the property not be rezoned or be classified to another district.

### **Section 603. Conditional Zoning Process for Approval**

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#### A. Pre-application Conference

- 1) Applicants must schedule a pre-submittal conference with the Jackson County Planning Director or his/her appointee (staff) to discuss site plan issues and submittal process.

#### B. Pre-application Submittal

- 1) The applicant must submit a pre-application for staff review.

#### C. Pre-submittal Conference

- 1) Applicants must schedule another conference with staff to discuss the results of the staff review, possible changes to the request, and public input meeting requirements.

#### D. Public Input Meeting

Before a public meeting may be held on a petition for a conditional zoning district, the applicant must hold at least one (1) community meeting. The community meeting shall be held prior to any recommendation by the staff and prior to the Village of Forest Hill's Planning Board's consideration of the request.

- 1) The following procedures must be met:

Based on the perceived impact of the proposal as determined by the Village of Forest Hills and the Jackson County Planning Director, the affected property owners will be notified by the applicant by letter. The applicant will work with County and Village staff to develop a list of property owners that should be contacted. Such notice shall be mailed to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the meeting as well as a description of the proposal.

- 2) A report of the meeting must be prepared by the applicant and should include, among other things, a listing of the following:
  - a) those persons and organizations contacted about the meeting,
  - b) the manner and date, time and location of the meeting,
  - c) a roster of persons in attendance at the meeting,
  - d) a summary of issues discussed at the meeting, and
  - e) a description of any changes to the rezoning petition as a result of the meeting.

#### E. Formal Submittal Requirements

Application packets must be complete in order to be processed and must be submitted 31 days prior to the Village of Forest Hills Planning Board meeting date. A complete submittal package consists of the following:

- 1) Completed Village of Forest Hills Rezoning Application.
- 2) Application fee (\$500)
- 3) 11 x 17 conceptual site plan drawn to scale (cannot be a reduced copy) along with 3 Copies of full-sized plan
- 4) Public input meeting report (public input meeting reports shall include the information required in **2.D** of this process).
- 5) Site plans shall include the following information:
  - a) Property to be developed, with surveyed property lines, topography (at a minimum contour interval), streams and other water bodies with corresponding buffers, floodplain as shown on the official Flood Hazard Boundary Maps for Jackson County, areas to which Jackson County's Mountain and Hillside Development district applies, delineation of watershed boundaries labeled with their respective classifications and impervious calculations.
  - b) Existing roads and utilities on and adjacent to the property, with rights-of-way and easements. Typical road cross sections.
  - c) Limits of land disturbance (grading)
  - d) Proposed buildings with description of total square footage, maximum height of buildings, and uses.
  - e) Proposed typical building elevations (to assure design is compatible with community and/or design standards).
  - f) Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space

dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.

g) Identification of open space to be provided

h) Statement of responsibility for maintenance of open space (maintained by Property Owners Association (POA) or to be dedicated to Village)

i) Location of pedestrian facilities (sidewalks, trails, etc.)

j) Conceptual landscape plan with proposed plant list, all proposed setbacks, buffers, screening and landscaping required by this Article 800 of this Ordinance and proposed by the petitioner.

k) Identification of proposed phases with schedule for development of phases (provide for revision of schedule upon approval by staff)

l) The proposed phasing of the project.

m) The proposed number, location, type and size of all signs.

n) The location and description of any outdoor lighting.

#### F. Set Request on Planning Board Agenda

The Village of Forest Hills Planning Board Chair will place the request on the Planning Board agenda and the applicant should attend this meeting.

#### G. Adjoining Property Notification and Posting of Property

The Village of Forest Hills (Clerk) has responsibility to notify the adjoining property owners of the public meeting held by the Planning Board. Owners of the property are generated through the most current Jackson County Tax Records. Planning staff will also post a rezoning sign on the property where rezoning is being requested.

#### H. Planning Board Meeting

Planning staff presents the conditional rezoning request to the Planning Board for their recommendation. The applicant should attend the Planning Board meeting to answer any questions the Planning Board or public may have about the project. The Planning Board may recommend approval, approval with conditions, denial or may defer their decision for 30 days. In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Planning Board may recommend that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address conformance of the development plan and use of the site to applicable ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site.

#### I. Adjoining Property Notification and Posting of Property

After a recommendation has been given by the Planning Board, it is Planning Staff's responsibility to

notify the local paper and the adjoining property owners of the public hearing held by the Village Council. Again, owners of the property are generated through the most current Jackson County Tax Records.

#### J. Village Council Meeting

Once the Planning Board has made a recommendation, the conditional rezoning request is submitted to the Village Council for the public hearing. In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Village Council may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to applicable ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site. The petitioner shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the Village Council. Only those conditions mutually agreed upon by Village Council and the applicant, with input from the public, may be incorporated into the conditional zoning district. A final determination will be rendered by the Village Council.

### **Section 604. Additional Conditional Zoning District Information Review**

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In evaluating an application for the establishment of a conditional zoning district, the Planning Board and the Village Council may consider the following:

- 1) Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
- 2) The potential impacts on the surrounding area, including but not limited to the absolute certainty the specific use(s), traffic, erosion, land values and the compatibility of land use activities.
- 3) Spot zoning
  - a) Size of tract;
  - b) Compatibility with adopted plan;
  - c) Public benefits and detriments of proposed rezoning; and
  - d) The relationship between proposed use and current use(s) of adjacent properties.

## **ARTICLE 700. DESIGN REVIEW**

### **Section 701. Purpose**

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The review procedure seeks to promote rehabilitation and new construction that enhances and preserves the character of the Village of Forest Hills, promotes visual harmony, and develops creative design solutions. Projects for which design review is required will be evaluated for their compliance with the design standards set forth in the Ordinance.

### **Section 702. Applicability**

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Design review shall be required for all new commercial development and multi-family development with three or more units regulated by the Ordinance. Design review also shall be required for rehabilitation projects where the existing commercial or multi-family building will be substantially altered and for signage, landscaping, site design, and the exterior illumination of these developments. The design review process is a mandatory review/mandatory compliance program.

### **Section 703. Design Review Process**

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#### A. Pre-application conference.

A meeting with the county planning department staff is recommended prior to the submittal of an application for design review. Advice regarding the information required for submittal and the review schedule can be provided during the pre-application conference.

#### B. Application submittal.

- 1) Filing of application. An application for design review shall be filed by the owner of the property or a duly authorized representative of the owner. The application shall be filed with the county planning department on a form provided by the Village of Forest Hills
- 2) Fees. Any application fee, as designated by the Village of Forest Hills, shall be due and payable upon submission of the application.
- 3) Information required. Each application for design review shall contain a site plan prepared in accordance with the requirements of the Ordinance, building elevations, and additional information regarding the design and materials of the proposed project. **See requirements set forth in the "Planning Department Application for the Village of Forest Hills" available from the Village and Jackson County Planning Department.**

C. Planning staff review. The Jackson County Planning Department shall review the application and related information for compliance with the design standards set forth in **Section 704** of this Ordinance within ten working days of the submittal of the application. The Jackson County Planning Department shall provide the applicant with the review findings upon completion of the review. For those projects requiring Planning Board review, the Jackson County Planning Department shall schedule the application for review by the Village of Forest Hills Planning Board at its next available regular meeting.

D. Formal review. For those projects requiring review by the Village of Forest Hills Planning Board, the Planning Board will review the application and related information for compliance with the design standards set forth in **Article 700** of the Ordinance and provide their recommendations to the Village of Forest Hills Council for review at its next available regularly scheduled meeting following review of the application by the Planning Board. The Planning Board may find that the proposed project is in compliance with the design standards, may recommend design revisions to make the proposed project more compliant with the design standards, or may find that the proposed project is not in compliance with the design standards. The recommendations and findings of the Planning Board are mandatory and the applicant is required to revise the design in response to the recommendations. For those projects requiring a conditional use permit, the findings and recommendations of the Planning Board shall be used by the Forest Hills Board of Adjustment in determining whether the proposed development complies with the standards for the granting of a conditional use permit.



E. Alternative design review. Design standards set forth in **Section 704** of the Ordinance are intended to set minimum standards for quality development in the Village of Forest Hills; they are not intended to be arbitrary or to inhibit creative design solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with design standards set forth in the Ordinance.

An applicant for design review may elect alternative design review for the development, or any portion thereof, whereby the Village of Forest Hills employs a licensed architect or landscape architect to review and make recommendations on the information submitted pursuant to **Section 704** of the Ordinance. The hired architect or landscape architect will serve as an extension of county planning department staff, and prepare a written report commenting on the development's ability to meet the intent of the design standards included in the Ordinance and/or recommend any additional modifications needed to achieve consistency.

The hired architect or landscape architect will report solely to planning staff on matters related to the application for design review. The cost to the Village for any services provided by the hired architect or landscape architect related to the alternative design review shall be billed directly to the owner of the property. Payment from the property owner shall be received prior to scheduling the public hearing.

#### **Section 704. Architectural Design Standards.**

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A. General. Building design and architecture are critical components for quality development. Building architecture design standards are intended to promote compatibility of the development with the surrounding community and throughout the Cullowhee Planning Area, to allow creativity and diversity of design, to protect property values and neighborhood quality, and to provide a safe and attractive environment for residents and visitors alike in the community.

B. Applicability. The standards in this section shall apply to all nonresidential development/re-development and to multi-family residential development/re-development proposing three (3) or more dwelling units.

#### C. Building materials and color.

##### 1) Materials.

a) All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, brick, or other high quality masonry material. No building shall be covered with sheet or corrugated metal or with vinyl siding.

b) Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacturer specifications.

c) Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.

d) Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

##### 2) Colors.

- a) Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.
- b) Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding natural and built environment to minimize contrast between the structure and the surrounding area.
- c) All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

D. Building massing and configuration.

- 1) Buildings located on steep areas shall conform to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.
- 2) Building masses shall maintain a balance of scale and proportion using design components that are harmonious with natural landforms and landscaping.
- 3) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

E. Building façade character. Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

- 1) Buildings containing nonresidential uses. The following requirements apply to any building containing nonresidential uses, regardless of whether the building also contains residential uses:
  - a) Buildings with a façade length of more than 40 feet shall incorporate offsets to break the plane of the façade. The distance between required offsets shall be every 30 feet.
  - b) A building façade that is less than or equal to the height of the building shall not require an offset.
  - c) The depth or projection of the offset shall be at least two feet.
  - d) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.
- 2) Buildings containing residential uses. The following requirements apply to any building containing only residential uses:
  - a) The distance between required offsets shall be 20 feet, provided that a building façade that is less than 25 feet in length shall not require an offset.
  - b) The depth or projection of the offset shall be at least two feet regardless of the length of the adjacent façade walls.

c) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.

F. Minimum wall articulation. Any building greater than 40 feet in length, measured horizontally, that faces a public right-of-way or private street or pedestrian walkway shall include at least three of the following features:

- 1) Change in texture or masonry pattern
- 2) Change in color
- 3) Windows
- 4) Dormers
- 5) Trellises with vegetation
- 6) Covered porch
- 7) Balconies
- 8) Parapet walls designed to meet the minimum requirements set forth of **Section 704.J.1.b Roof Form and Articulation**, of the Ordinance.

All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six feet high built using materials consistent with the building, or landscaping measuring at least 15 feet in height at maturity.

G. Windows.

- 1) The first floor front elevation of all commercial buildings shall incorporate windows that cover at least 40 percent of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted with the exception of low-E glass.
- 2) The first floor front elevation of all multi-family residential buildings shall incorporate windows that cover at least 12 percent of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted with the exception of low-E glass.

H. Entrance. All entranceways shall be clearly defined, highly visible, and feature no less than three of the following:

- 1) Canopies or porticos;
- 2) Overhangs;
- 3) Recesses or projections;
- 4) Arcades;

- 5) Arches;
- 6) Outdoor patios;
- 7) Windows;
- 8) Awnings;
- 9) Architectural features that are integrated into the building structure or design; or planters or wing walls that incorporate landscaped areas or places for sitting.

I. Roof form and articulation. The roof of any building shall present a distinctive profile and add interest to larger buildings, and complement the character of other buildings included on the same lot or parcel.

- 1) Flat roof buildings. The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in **Section 700-J, Rooftop Equipment Screening**, of the Ordinance, and such parapets shall not at any point exceed one-third of the height of the supporting wall.

Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than 100 feet in length.

- 2) Slope roof buildings. The roof of any building with a slope roof shall include at least two of the following to maintain proportional building architecture:
  - a) Three or more roof slope planes;
  - b) Overhanging eaves, extending no less than one foot past the supporting wall;
  - c) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run.
- 3) Additional requirements. Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.

The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

J. Rooftop equipment screening. Screening Requirements

- 1) All rooftop mechanical equipment and vents greater than eight inches in diameter shall be:
  - a) Screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;

b) Screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

K. Franchise architecture. Franchise or national chains are welcome in the Village of Forest Hills, but must follow the standards of the Ordinance to create a building that is compatible with the Village Community.

L. Architectural unity. All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

## **ARTICLE 800. LANDSCAPING AND BUFFERING STANDARDS**

### **Section 801. Purpose.**

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The abundant and diverse tree and vegetative cover found in the Village of Forest Hills contributes to the aesthetic quality of the community and provides numerous economic and ecological benefits. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas in order to:

- 1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation.
- 2) Maintain and improve the visual quality of Forest Hills and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, heat, and odor.
- 3) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy.
- 4) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants to assure a high level of quality in the appearance of Forest Hills while allowing flexibility to promote well designed and creative landscape plantings.
- 5) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater run-off, decreased erosion, improved water and air quality, and protection of wildlife habitat.

### **Section 802. Applicability.**

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A. Bufferyard plantings, street trees, and parking lot trees and shrubs are required for new developments and major redevelopments within Forest Hills. The following developments must bring the entire site into compliance with the landscaping and buffering requirements of the Ordinance as set forth in this section:

- 1) Any new private or public development.
- 2) Renovations with a total cost exceeding 50 percent of the assessed value of the building,

according to Jackson County tax records and building permits.

- 3) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface.
- 4) Existing unpaved parking lots that are paved over or existing paved lots that are demolished and repaved.

B. Expansions or additions that are less than 50 percent of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge.

### **Section 803. Landscape plan requirements.**

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A. Pre-Application. Applicants are encouraged to meet with Jackson County Planning Department staff prior to submitting a site plan to discuss applicable landscape requirements, other ordinance requirements, and coordination of plantings with other construction activity. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with Site Plan Requirements.

B. Alternative compliance. The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Jackson County Planning Department staff may alter the landscape and buffering requirements as long as existing or added landscape features of the development site comply with the intent of this chapter. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

- 1) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;
- 2) Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area; or
- 3) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements, and exhibits superior design quality. The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Jackson County Planning Department. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance. The Planning Department shall render a decision approving, approving with conditions, or denying the request within ten working days of reviewing the request for alternative compliance.

C. Existing vegetation. Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the

community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in subsection **Section 803.C.1** below.

- 1) Credits and other incentives to preserve existing vegetation. Existing trees that are preserved may be credited for required trees as follows:

Existing Width	New Tree Credit
2"—6"	caliper tree = 1 new tree
7"—12"	caliper tree = 2 new trees
13"—18"	caliper tree = 3 new trees
19"—24"	caliper tree = 4 new trees
25+"	caliper tree = 5 new trees

In order to receive credit, existing vegetation that is preserved must be in good health and condition. Trees designated to be preserved must be indicated on the landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of **Section 803.C.2** below. If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

- 2) Protection of existing trees during construction.

- a) No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved in order to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation that are counted toward the landscape requirement must be protected by barriers, while trees designated for protection that do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated. Barricades or barriers must be placed around the critical root zone of any existing trees to be preserved that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, an eight-inch diameter tree would have a barricade surrounding it located eight feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of either:

- i. A fence that is at least three feet high and constructed in a post and rail configuration; or
- ii. A fence with posts placed no further than ten feet apart covered with a 4-foot orange polyethylene laminar safety fencing.

- b) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area. The following is prohibited:

- i. Grading;

- ii. Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation;
  - iii. Parking;
  - iv. Storage of debris or material, including topsoil;
  - v. Disposal of hazardous waste or concrete washout;
  - vi. Attaching of nails, ropes, cables, signs, or fencing to any tree to be preserved;
- c) If any area within the critical root zone will be disturbed for any reason, measures must be taken to minimize any potential impact. The developer should coordinate with utility companies early in the design process to resolve any potential conflict regarding the placement of utilities and landscape requirements. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of the tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

#### D. Bufferyard requirement.

- 1) Requirement. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Bufferyards shall be required between a proposed development and a dissimilar existing land use to provide a transition between them. A bufferyard is a strip of land with existing vegetation, planted vegetation, a landscaped earth berm or grade change, a fence, a wall, or a combination of the above. The bufferyard width and number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining bufferyard width is provided in **Sections 803.6 and 803.10**.
- 2) Responsibility for bufferyard. The required bufferyard shall be the responsibility of the property owner developing the property or the property owner changing the land use. Bufferyards must be located on the property being developed or on which the land use is changing, and shall be between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The bufferyard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.
- 3) Setbacks. If a setback requirement is less than the minimum buffer requirement, the bufferyard width requirement shall override the setback requirement.
- 4) Use of bufferyards. Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated trails or greenways, utilities, drainage ways, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Utility easements may be included in the width of the bufferyard with the following conditions:
  - a) Utility lines should be located to cross perpendicular to a bufferyard, if possible, to



minimize the impact.

b) If utility lines must run with a bufferyard, they must be located along the edge of the bufferyard.

c) The developer should minimize the amount of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the bufferyard planting requirement unless they are approved by the utility companies and the Village.

5) Placement of bufferyard plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be approved by the Jackson County Planning Department. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least five feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.

6) Determination of bufferyard requirements. To determine if a bufferyard is required between two adjacent land uses and, if so, what bufferyard width and planting density is required, the following procedure shall be used:

a) Identify the proposed land use and the adjacent land use(s) on the list of permitted uses found in **Article 200** of the Ordinance. Note the category under which the proposed use is listed.

b) Identify the size (acreage) of the property being developed and of the abutting properties.

c) Use the following table to determine buffer requirements for the development. This process must be done for each property line, except where the property to be developed abuts a street or road, to determine if a buffer planting is required.

<b>PROPOSED USE CATEGORY</b>	<b>EXISTING USE CATEGORY</b>	<b>PROPOSED USE SITE SIZE</b>	<b>EXISTING USE SITE SIZE</b>	<b>BUFFER REQUIRED</b>
Any	Same as proposed use	<1 acre	<1 acre	None
Any	Different than proposed use	<1 acre	<1 acre	Class A buffer
Any	Different than proposed use	<1 acre	>1 acre	Class A buffer
Any	Same as proposed use	>1 acre	<1 acre	None
Any	Same as proposed use	>1 acre	>1 acre	None
Any	Different than proposed use	>1 acre	>1 acre	Class B buffer

Any	Different than proposed use	>1 acre	<1 acre	Class B buffer
Any	Same as proposed use	<1 acre	>1 acre	Class A buffer
Apartments < 25 bedrooms	Any	Any	Any	Class A buffer
Apartments ≥ 25 bedrooms	Any	≥ 1 acre	Any	Class B buffer

- 7) Mixed uses. When a lot has a combination of different land uses, the buffer is calculated based upon the category of land use occupying the greatest percentage of the lot.
- 8) Buffer not required when a street separates incompatible land uses. If a street or road is located between two land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed; however, street trees are required along the property to be developed.
- 9) Buffer requirement when development site abuts a vacant lot. If the property to be developed abuts a vacant lot, a “Class A” buffer shall be provided on the property to be developed.
- 10) Buffer description table.

Description	"Class A" Buffer	"Class B" Buffer
Minimum buffer width	15 feet	20 feet
Total number plants per 100 linear feet	18	26
Number of evergreen trees	6	8
Number of large deciduous trees	2	3
Number of small deciduous trees	2	3
Number of shrubs (at least 75% must be evergreen)	8	12

- 11) Existing vegetation in the buffer. Existing vegetation in the buffer area may be counted toward the required plantings according to Section 803.C.1. The Planning Department staff must approve the use of existing vegetation to meet the buffer requirement.
- 12) Buffer reductions. The width of the buffer may be reduced up to 50% with the use of a fence or wall. Fences and walls must meet the following standards:
  - a) Fences or walls shall be constructed of wood, brick, stone, or other masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Jackson County Planning Department staff.

- b) Fences and walls shall be a minimum of six feet tall;
- c) The finished side of the fence or wall shall face the abutting property; and
- d) A planting strip with a minimum width of five feet shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than eight feet apart in order to screen at least 50 percent of the fence or wall at maturity.

E. Screening of dumpsters, loading docks, outdoor storage areas, and utility structures. All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or bufferyard. Landscaping shall not interfere with the access and operation of any such structure or facility. All unenclosed outdoor storage areas greater than 15 square feet shall also be screened from adjacent properties and streets. Screen types include:

- 1) A continuous hedge of evergreen and/or densely twigged shrubs planted in a 5 foot strip with plants spaced no more than five feet apart or a row of evergreen trees planted no more than eight feet apart.
- 2) A fence or wall with a minimum height of six feet with the finished side of the fence or wall facing the abutting property or the street.

F. Street trees. Street trees are required for all new nonresidential development. Street trees shall be required at the rate of one large maturing (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street or road or one small maturing tree (less than 35 feet in height at maturity) for every 30 linear feet of property abutting a street or road, if overhead utility lines are present. This does not imply that trees must be spaced exactly 30 feet or 40 feet apart, but may be clustered together with a minimum spacing of 15 feet. Trees should be spaced no more than 65 feet apart. Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than 20 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.

G. Parking lot landscaping requirements.

- 1) Requirements for new developments. Trees and shrubs are required in and around parking lots with more than six spaces to enable the parking areas to blend in with the natural appearance of Forest Hills, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter exhaust from vehicles. There are three parking lot planting requirements that may apply to a development depending upon its relation to other properties and public rights-of-way.
  - a) Perimeter and interior plantings. Parking lots, loading areas, and other vehicle use areas must be planted with one deciduous tree and two shrubs for every 2,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be placed within 20 feet of the vehicular

use area to count as parking lot landscaping. When four or more trees are required in a parking lot with interior rows, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot. Each parking space shall be located within 45 feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow. Trees and shrubs shall not impede vehicular or pedestrian visibility.

b) Planting strip. A planting strip with a minimum width of five feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within 50 feet of an abutting property and no buffer is required, except for driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from one another. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in subsection a. (above) if the planting strip is located within 20 feet of the vehicle use area. Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.

c) Buffering from the street. Vehicular use areas greater than 2,500 square feet that are located within 30 feet of a street or road must be buffered from the street or road. This buffer is required in addition to the street trees planted in a ten-foot planting strip as required by **Section 803.F**. The buffer must contain plants that will be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changes combined with plant material. A vegetative buffer shall contain at least one evergreen or deciduous shrub for every five feet of vehicular use area buffer required. If a fence or wall is used, at least one shrub must be planted for every eight linear feet of fence or wall. Shrubs should be evenly distributed on each side of the fence. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirement.

- 2) Size of planting islands. Tree planting islands within vehicular use areas shall be a minimum of 150 square feet and have no width less than nine feet.
- 3) Protection of trees. Planting areas and islands shall be protected by curbing, bollards, or parking barriers if a tree or shrub is within six feet of the edge of the pavement. Trees in islands should be set back at least four feet from the edge of the island so as not to interfere with car doors opening.

H. Multi-family residential developments. In addition to other landscaping requirements, multi-family residential developments, including townhome developments with more than 20 dwellings, shall provide one large maturing deciduous tree for every three dwelling units, planted within the required open space on the property.

#### I. Compliance and maintenance.

- 1) Certificate of occupancy. Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best

chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of 150 percent of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion of the required landscaping.

- 2) Maintenance. The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken fence or wall shall constitute a violation of the Ordinance and shall be subject to the penalty provisions set forth in **Section 10004** if no corrective action is taken within 30 days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of the Ordinance.

#### J. Plant specifications.

- 1) Recommended plant species. (*See Recommended Landscape Species List for the Village of Forest Hills, NC*) The use of plant materials that are indigenous to the region and readily available from local nurseries is encouraged. Native plant materials are acclimated to the area, are better suited for survival, and maintain the character and appearance of the Forest Hills.
- 2) Minimum plant size requirements:
  - a) Large maturing deciduous tree: Greater than 35 feet in height at maturity. Minimum size at planting shall be two inches caliper with a 12 to 14 foot height.
  - b) Small maturing deciduous tree: Less than 35 feet in height maturity. Minimum size at planting shall be one and one-half inches in caliper with an eight to ten-foot height.
  - c) Evergreen tree: Minimum height at planting shall be six feet.
  - d) Deciduous shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.
  - e) Evergreen shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.
- 3) Plant standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.

## **ARTICLE 900. BOARD OF ADJUSTMENT**

### **Section 901. Establishment of the Zoning Board of Adjustment.**

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A. The establishment of the Zoning Board of Adjustment is hereby affirmed. The Village Council shall serve as the Zoning Board of Adjustment plus the Council shall appoint additional members and alternate members so as to allow 7 members to serve on the Board of Adjustment.

B. The Village Council shall appoint at least one resident of the extraterritorial area to serve as a member of the Zoning Board of Adjustment consistent with G.S. 160A-362.

C. The Village Council shall by appointment fill any vacancy in the membership of the Zoning Board of Adjustment. The appointee shall serve the balance of the term of the member who the appointee is replacing.

D. Members of the Zoning Board of Adjustment shall serve without pay, but may be reimbursed for any expenses incurred in pursuant of the Board's activities.

E. The concurring vote of four-fifths (4/5) of the Board shall be necessary in order to grant a variance. A simple majority of the members shall be required to decide any quasi-judicial matter such as to reverse any order, requirement, decision, or determination of the Administrator. On all appeals, applications, and other matters brought before the Zoning Board of Adjustment, the Board shall inform all parties of its decisions and reasons therefore in writing. For the purposes of this sub-section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

F. The Board may adopt by-laws in accordance with the provisions of this Ordinance and the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or if absent the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

### **Section 902. Appeals.**

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A. The Zoning Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made in the enforcement of this Ordinance.

B. In order to provide time for appeal as herein provided, the decision of the Jackson County Zoning Administrator shall not become effective until the tenth regular business day from the date of the issuance of a Zoning Certificate, or (in the case of the conversion of an existing structure to a new use) a Certificate of Compliance. In extraordinary circumstances in which life or property is threatened, the Zoning Board of Adjustment, upon proper findings of fact, may confirm the action of the Administrator within the ten business day period. The action of the Zoning Board of Adjustment may be made upon those reasonable conditions that the Board deems necessary under the circumstances; however, the confirmation shall not preclude the right of appeal vested in citizens and owners.

C. Appeals to the Zoning Board of Adjustment may be taken by the person affected by a decision of

the Administrator. Appeals shall be filed on the proper form, addressed to the Zoning Board of Adjustment, and delivered to the office of the Administrator within 30 days of the decision being appealed. A notice of intent to file an appeal shall be filed in the same manner within ten business days of the decision being appealed.

D. All documents, pleadings, and transcripts or certified copies thereof, constituting the record upon which the action being appealed was taken, shall forthwith be transmitted to the Zoning Board of Adjustment by the Administrator.

E. Upon service of the notice of appeal, accompanied by the supporting documents, the Board shall forthwith fix a date within a reasonable time thereafter for the hearing of the appeal or for a hearing upon any other matter properly referred to it.

F. The Zoning Board of Adjustment shall call a public hearing, shall give due notice thereof to the parties of interest, and render a decision upon the same within a reasonable time after the hearing. At the hearing, any party may appear in person or be represented by an authorized agent or attorney.

### **Section 903. Variances.**

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A. The Zoning Board of Adjustment shall have the power to authorize a variance from the terms of this Ordinance provided in so doing the action is not contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance is observed, public safety and welfare secured, and substantial justice done.

B. All applications for variances shall be addressed and submitted to the Jackson County Planning Office. Upon receipt of an application for a variance, the Zoning Board of Adjustments shall call a public hearing and give notice as required by law. Applications for a variance shall be made on the proper form obtainable from the Jackson County Planning Office. Some application requirements may be waived, such as changes of use in existing buildings involving no expansions in building or parking areas, etc.

C. Before the Zoning Board of Adjustment may grant a variance, it shall make the following three findings that shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

- 1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that all five of the following conditions exist:
  - a) If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of the property.
  - b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

- c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
  - d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this Ordinance, or who purchases the property after the effective date of the Ordinance and then comes to the Board for relief.
  - e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.
- 2) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area a non-conforming use. Moreover, the existence of a non-conforming use in the same or any other zoning district shall not constitute a reason for granting the requested variance.
  - 3) In granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds in so doing would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or general welfare.

D. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance.

E. The Zoning Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

F. A variance issued in accordance with this Section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision.

**Section 904. Appeals from the Zoning Board of Adjustment.**

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Appeals from the Zoning Board of Adjustment shall be taken to the appropriate court of record, as provided by law.

**ARTICLE 1000. ADMINISTRATIVE AND LEGAL PROVISIONS**

**Section 1001. Administrator [Ordinance Administrator(s)].**

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A. Appointment and Removal. The Village Council shall, by a majority vote, appoint an Ordinance Administrator, who shall be duly sworn in. The Administrator shall serve at the pleasure of the Village Council and may be removed from office without cause at any time by an affirmative vote of a majority of the members of the Village Council.



B. Powers and Duties. The Administrator is granted the authority to administer and enforce the provisions of these Ordinances.

C. Issuance of Certificates. The Jackson County Planning Office shall have the sole authority to issue Zoning Certificates and Certificates of Compliance.

D. Availability for Duty. The Administrator(s) shall be available to receive applications by appointment. A notice indicating how to contact the Administrator shall be posted on the Village website. The Village Council shall have the authority to appoint a Deputy Administrator, [Deputy Ordinance Administrator(s)] to serve in the place and stead of the Administrator for those times that the Administrator is on leave of absence. The Deputy Administrator shall be duly sworn in.

**Section 1002.Zoning Certificate. – see Appendix I**

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A. No person shall commence or proceed with construction of any new building or with the reconstruction, alteration, repair, moving, or demolition of any existing building prior to the issuance of a Zoning Certificate. Application for a Zoning Certificate shall be filed with the Jackson County Planning Office and may be made prior to or in conjunction with application for a permit under the North Carolina State Building Code. Application shall include the following information:

- 1) A site sketch, drawn to a scale of at least one inch to forty feet (1"=40'), of the parcel of property showing its actual dimensions and indicating the size, location, and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, included but not limited to driveways, sidewalks, and parking areas.
- 2) A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, and consisting of, at minimum, of a floor plan and elevations of the building (except, however, that the Administrator may approve minor construction work without compliance with this requirement).
- 3) A description of the use to which the completed project shall be devoted.
- 4) Any other information Jackson County may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this Ordinance.

B. Jackson County shall review each element of the application and if satisfied that the work described therein complies with the Ordinance, issue a Zoning Certificate. Zoning Certificates may be issued prior to application for a permit under the North Carolina State Building Code. After a Zoning Certificate has been issued, no changes or deviations from the terms of the application, plans, or permit shall be made until specific written approval has been obtained from Jackson County

C. If Jackson County finds the application to be deficient or the information contained therein to be contrary to the provisions of this Ordinance, the application for a Zoning Certificate shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.

D. A Zoning Certificate shall expire six months after the date of issuance if the work authorized has not commenced. If after commencement the work is discontinued for a period of 12 months, the certificate shall immediately expire. Upon expiration, the certificate shall become void and no work may

be performed until a new certificate has been secured.

**Section 1003. Certificate of Compliance. – see Appendix I**

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A. A Certificate of Compliance shall be secured from the Jackson County Planning Office before the making of a permanent connection to electrical service, water service, or sewer service.

B. If any repairs, improvements, or alterations have been performed for which a Zoning Certificate has been issued, a Certificate of Compliance shall be secured from the Jackson County Planning Office within 30 days from the completion thereof.

C. The Certificate of Compliance shall certify that Jackson County has inspected the completed improvements and that the improvements, together with the proposed use thereof, are in conformity with the Zoning Certificate and the provisions of this Ordinance.

D. No new building or part thereof, no addition or enlargement of any existing building, and no existing building that has been altered or moved shall be occupied until a Certificate of Compliance has been issued.

E. Jackson County may issue a Temporary Certificate of Compliance permitting occupancy of specified portions of an uncompleted building or project for a limited time, not to exceed six months, if Jackson County finds that the portion of the building or project may safely be occupied prior to the final completion of the entire building or project. Jackson County may renew the Temporary Certificate of Compliance for additional periods, each period not to exceed six months.

**Section 1004. Civil Penalties.**

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A. Responsible Party. The owner or occupant of any land, building, structure, sign, land use, or part thereof, and any architect, builder, contractor, agent, or other person, who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided therein.

B. Upon discovering a violation of this Ordinance, the Administrator shall issue a “Notice of Violation” containing the following information:

- 1) 1. that the land, building, structure, sign, or use is in violation of this Ordinance;
- 2) 2. a description of the violation and citation of the relevant sections of the Zoning Ordinance;
- 3) 3. specific measures necessary to remedy the violation;
- 4) 4. the time within which the violation shall be corrected.

A violation of this chapter shall subject the offender to civil penalties described in Section 705 of the Zoning Ordinance. The Administrator shall send a written notice of the violation to the violator by certified mail. If the violation is not corrected within thirty (30) days the aforementioned fine shall be levied.

If the violator does not pay the fine within thirty days, the Village may recover such penalty and all

subsequently accruing penalties in a civil action. In the event that it is necessary for the Village to institute a civil action to collect such penalty, the violator shall be responsible for all court costs and attorney's fees incurred by the Village. The Administrator, in conjunction with the appropriate law enforcement officers, shall be responsible for the enforcement of this Section.

C. No civil penalty shall be assessed under this Section until a Notice of Violation has been issued to the responsible party as provided above. If after receiving a Notice of Violation the responsible party fails to correct the violation, a civil penalty shall be imposed in the form of a citation. Such citation shall be in writing and shall be delivered by certified or registered mail to the last known address of the responsible party, by personal service, or by conspicuously posting on the property. The citation shall state the civil penalty fee and shall direct the violator to pay the civil penalty within 14 days of the date of issuance. Failure to pay the civil penalty shall subject the responsible party, in addition to other remedies, to the payment of reasonable attorney's fees, not to exceed 15% of the outstanding balance, including the principle amount of the penalty and interest accrued thereon.

D. A civil penalty schedule shall be set by the Village Council. Civil penalties paid within 10 business days shall be reduced by 50%.

E. Civil penalties assessed for violations of this Ordinance shall constitute a lien against the property upon which the violation is or has been conducted.

#### **Section 1005. Schedule of Fines for Civil Penalties.**

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A. The Village Council may establish, and from time to time amend, a Fine Schedule for penalties authorized by this Ordinance.

B. Unless specified otherwise, the penalties for noncompliance with any Ordinance of The Village of Forest Hills shall be:

- 1) First Citation/Violation \$50.00
- 2) Second Citation/Violation \$75.00
- 3) Third Citation/Violation \$100.00
- 4) Additional Citations/Violations \$125.00

#### **Section 1006. Ordinance Amendments.**

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A. In no instance shall action be initiated for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every 12 months. Any communication purporting to be an application for a change shall be regarded as a mere notice to seek relief until it is made in the form required. Upon receipt of any communication, the interested party shall be supplied with the proper application form.

Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may proceed in its consideration of the amendment without the planning board report.

The governing board is not bound by the recommendations, if any, of the planning board.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Prior to adopting or rejecting any zoning amendment, the Village Council shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. A Village Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

B. Before enacting an amendment to this Ordinance, the Village Council shall hold a public hearing. Notice of the public hearing shall be given once a week for two successive weeks by publication in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

When a zoning map amendment is proposed, the Village shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the village shall post sufficient notices to provide reasonable notice to interested persons.

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**Section 1007.Fee Schedule.**

The Village Council may establish, and from time to time amend, a fee schedule for the submission of applications, permits, certificates, appeals, and variances authorized and required by this Ordinance.

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**Section 1008.Effective Date.**

This Ordinance shall take effect and be in force from and after its adoption by the Village Council of The Village of Forest Hills, North Carolina, this the second day of August, 2004.

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**ARTICLE 1100.REGULATING 15 MPH SPEED LIMITS ON VILLAGE ROADS**

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**Section 1101.Authority.**

This regulatory ordinance is adopted pursuant to N.C.G.S. § 20-141(e).

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**Section 1102.Purpose.**

This ordinance is designed to allow the patrol officers to regulate the speed limit of vehicles on the public ways cited below, with the intent to designate a safe speed.

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**Section 1103.Regulation.**

When the proper notifications and procedures have been completed and the proper signs have been erected after enactment of the Ordinance, an operator shall not operate a motor vehicle faster than the noted speed limits on the following Village roads, or portions thereof:

North Country Club Drive: 15 mph starting at the junction of Cox Farm Rd. where the State-maintained portion of road ends, and extending west to the end of the road (the “loop”), a total distance of .95 miles

South Country Club Drive: 15 mph starting at 950 South Country Club Dr. where the State-maintained portion of road ends, and extending west to the end of the road (the “loop”), a total distance of .69 miles

Cave Springs Road: 15 mph starting at the junction of South Country Club Dr., and extending south to the end of the road, a total distance of 1.16 miles

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**Section 1104.Enforcement.**

This ordinance shall be enforced by the municipal patrol officers or their duly appointed designee, or other State and/or County enforcement personnel. Violations of the Ordinance shall be traffic infractions and shall be prosecuted, if necessary, in the appropriate District Court.

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**Section 1105.Severability.**

In the event that any portion of the Ordinance is found by the Court to be invalid, the remaining provisions shall continue in full force and effect.

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**Section 1106.Effective Date.**

This ordinance was adopted by the majority of the Village Council and is effective on April 7, 2015.

**ARTICLE 1200.DEFINITIONS.**

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**Section 1201.General.**

A. Except as specifically defined within this Section or elsewhere within this Ordinance, all words used in this Ordinance will be construed to have their customary dictionary definitions.

B. Words used in the present tense shall include, where appropriate, past and future tense. Where appropriate, words in the singular shall include the plural and words used in the plural shall conversely include the singular.

C. The word “shall” is always mandatory; the word “may” is permissive.

D. The words “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

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**Section 1202.Individual Words or Terms.**

For the purposes of this Ordinance, certain words or terms used herein are defined as follows:

Administrator. The term Administrator shall refer to either the Ordinance Administrator or the Zoning Administrator or both, which may be one and the same individual (see definition for Ordinance/Zoning Administrator).

Apartment. A dwelling unit.

Building. Any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind, including sheds, carports, garages, guest cottages, and other outbuildings, and also including any extension and extrusion of the building such as balconies, decks, and porches.

Dwelling Unit. A single residential unit where complete, independent living facilities-including provisions for living, sleeping, eating, cooking, and sanitation-are provided on a permanent basis.

Family: One or more individuals occupying premises and living as a single, non-transient, non-profit housekeeping unit, including domestic servants or live-in help. The following individuals shall be included in this definition:

- a) a single person or up to two unrelated persons;
- b) a single person or couple's biological, foster or adopted child, a step-child, or other legal ward;
- c) a single person or couple's parents, siblings, and persons preceding or succeeding generation denoted by the prefixes of grand, great or great-great;
- d) spouses of any persons named in the above groups;
- e) up to six (6) persons residing in a family care home Free-Standing

Sign. A sign that is not attached to or supported by any building. Such signs shall include ground signs, signs mounted on poles or other supports.

Home Occupations. An occupation customarily conducted entirely within a dwelling and by members of the family residing in the dwelling, which use is clearly incidental and secondary to that of the residential dwelling and does not change the residential character of the structure or neighborhood.

Motel. A building used to provide temporary lodging for transient residents of a daily or weekly basis and not including in-room facilities for the preparation of food.

Indirectly Illuminated Sign. A sign that is illuminated by a white light source that is shielded and directed solely at the sign face.

Lot. A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

Manufactured Home. A dwelling unit that is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one- and two-family dwellings; is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and exceeds 40 feet in length and 8 feet

in width.

Mobile Home. A manufactured home.

Modular Home. A dwelling unit constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for one- and two-family dwellings, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation. Without limiting the generality of the foregoing, a modular home may consist of two or more sections transported to the site on each chassis or steel frame, or a series of panels or room sections transported to the site on a truck and erected, assembled, or joined there.

Ordinance/Zoning Administrator. An official or designated person of the Village responsible for the administration and enforcement of these Ordinances (see definition for Administrator).

Person. An individual, corporation, partnership, firm, association, trust, and any other legally recognized entity.

Planning Staff. An individual(s) appointed or hired by the Village of Forest Hills Council to represent the Village in planning matters; also includes members of the Jackson County planning department when acting on behalf of the Village of Forest Hills.

Premises. A lot or parcel of land, together with the buildings located thereon.

Political Sign. A sign attracting attention to political candidates or political issues, and including any lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and complies with all other requirements of this Ordinance.

Sign. A visual display designed to advertise, identify, direct, promote, or in any way attract attention to a product, service, business, event, person, or specific location.

Structure. Anything constructed or erected, including-in addition to buildings as defined by this Ordinance-walls, fences, gates, mailboxes, reflectors, or mirrors associated with driveways, residential parking decks (whether constructed of fill dirt or retaining walls, or other methods), and private bridges or tunnels.

Surface Area. The entire display area of a sign, including any border or accessory area, but excluding any base supports, posts, roofs, or other structural elements provided they do not serve primarily to attract attention. In the case of three-dimensional letters or letters painted directly on the wall surface, the surface area shall be defined as the total of the areas within the perimeter of each letter.

Traffic Sign. A sign erected by Federal, State, or Municipal authority and regulating automobile, truck, bicycle, and pedestrian movement.

Wall Sign. A sign placed flat against, and projecting no more than inches from a building wall. Mansard roofs, or any roof portion thereof with an angle of 60 degrees or more from the horizontal, shall be considered wall space for sign purposes.

Zoning Districts. Zoning districts established by this Ordinance and designated on the Zoning Map of The Village of Forest Hills.

FOREST HILLS VILLAGE COUNCIL

\_\_\_\_\_  
Kolleen Begley, Mayor

ATTEST: \_\_\_\_\_ Stephanie Gibson, Village Clerk

STATE OF NORTH CAROLINA

COUNTY OF JACKSON

I, \_\_\_\_\_, NOTARY PUBLIC of the state of NC, hereby certify that Kolleen Begley, The Mayor of The Village of Forest Hills, and Stephanie Gibson, The Village Clerk, personally appeared before me this day and acknowledged due execution of the foregoing Ordinances. Witnessed by hand and Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_ Signature of Notary Public

Notary (Seal)

My commission expires \_\_\_\_\_