

**The Village of Forest Hills Zoning Ordinance**

**Approved by the Council of The Village of Forest Hills August 2, 2004  
Amendments Approved by the Council of The Village of Forest Hills on February 1, 2011**

**ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS**

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

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.**

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.

**Section 103. Jurisdiction.**

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.**

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.**

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

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**Section 106. Remedies.**

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 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 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 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 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

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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.**

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.**

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 of not less than 2,000 square feet of heated area, 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-

- 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: two acres per single-family residential unit.

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.**

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: two acres per single-family residential unit 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.**

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: two acres per single-family residential unit.

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Minimum lot width at building line: 100 feet for lots created after the effective date of the Ordinance; 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.**

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-

- 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: 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 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.

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

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

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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.

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

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

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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.

**Section 206.1: P-1: Professional Office District**

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. Buffer Required

Upon any side or rear lot line which abuts a residential district there shall be a densely planted and maintained buffer strip. No such buffer shall, however, extend nearer to a street right-of-

way line than the established building line of the adjoining residential lots.

The buffer shall consist of a planting strip at least ten feet in width, composed of evergreen trees twenty feet apart and not less than one row of dense shrubs, spaced not more than five feet apart. Existing natural buffers may be used to satisfy this requirement provided they comply with the dimensional requirements of this Section.

Table 1: Summary Table of Permitted Uses in the Residential Districts of the Village of Forest Hills

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

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.

**Section 207. Municipal Corporation and Public Utilities.**

A. In addition to the permissible uses authorized within designated Districts, the construction,

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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 208. Miscellaneous Prohibitions: Farm Animals and Firearms.**

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.

D. APPEALS: See Article 600, Section 602.

**Section 209. Use of Land Within Right-of-Ways and Setbacks.**

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.

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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 210. Special Events Authorized by the Village Council.**

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 211. Neighborhood Appearance.**

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



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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. APPEALS: See Article 600, Section 602.

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 Zoning Administrator (or Legal Council 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 212. Pet Restrictions and “Leash Law.”**

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

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 premise 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 Zoning 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 Zoning Administrator.

E. PENALTIES FOR VIOLATIONS: See Article 700, Sections 704 and 705.

F. APPEALS: See Article 600, Section 602.

**Section 214. Emergency Management. – see Appendix I**

**Section 215. Watershed Protection. – see Appendix II**

**Section 216. Flood Damage. – see Appendix III**

**Section 217. Sediment Control. – see Appendix IV**

**Section 218. Cell Tower Ordinance. – see Appendix V**

**Section 219: Residential Occupancy Controls**

[a] Any residential dwelling unit occupied by a group of more than two (2) unrelated persons not acting as a family, as defined in this 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 this 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.

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[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 Subsections [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. Applicability.**

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

**Section 302. Parking Regulations.**

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 North Country Club Drive or its right-of-way between the intersection of NC 107 to the University Motel. 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.**

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.**

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.**

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.

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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.**

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

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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.**

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 temporary on-premise signs advertising the rent, sale, or lease of a commercial or residential building, provided that the surface area of each sign does not exceed 8 square feet in surface area per building.
3. Signs advertising the sale of produce out of a home garden on the premises where the produce is being sold, not to exceed one non-illuminated sign per premises, provided that such signs do not exceed 8 square feet in surface area per sign face, 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, and shall be displayed only during the months of March through October.
4. 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.
5. 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.
6. Political signs provided they are not illuminated, 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, do not exceed 4 square feet in surface area per sign face, and do not constitute a hazard to pedestrian or vehicular traffic,
7. 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.**

A. Temporary Signs. – none permitted.

B. Permanent Signs.

The following permanent signs are permitted, subject to the issuance of a permit by the Zoning Administrator. Application for a permanent sign shall be made on the proper form, obtainable from the Village Clerk. 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 the Zoning Administrator 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.**

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 Zoning 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.

#### **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.

#### **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 Zoning 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 Zoning 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 the Zoning Administrator.

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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 the Zoning Administrator 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.**

**501.1 Applicability.** 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 this 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

### **501.2 Procedure.**

A. All applications for a conditional use permit shall be addressed and submitted to the Village Council and shall be delivered to the office of the Administrator. Applications for a conditional use permit shall be made on a proper form obtainable from the Administrator. 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 Subdivision Regulations for The Village of Forest Hills 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

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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 Technical Review Group as defined in the Subdivision Ordinance 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

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Administrator. The Administrator 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.

### **501.3 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.

### **501.4 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.

## **Section 502. 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 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 require that all unpaved disturbed surfaces be covered with a permanent plant or mulch material. The landscaping plan shall provide provisions for identifying and protecting existing trees during the clearing, grading, and construction phases of the development. These measures shall include but not be limited to designated areas around the drip zone of protected trees where construction and other equipment are prohibited. Street trees shall be incorporated in the landscape abutting all street rights-of-way. The landscaping shall be maintained and all dead materials shall be replaced by the next growing season.

10. Buffering.

a. Where the Village Council finds that the existing vegetation and topography is inadequate between existing and proposed development buffering shall be provided to form a visual separation between the development and adjacent residential areas. Screen plantings shall include two staggered rows of mixed evergreen and deciduous trees. Trees in each row shall be planted at eight-foot intervals, and shall have a minimum height of eight feet in height when planted, as measured from the top of the root ball. The plantings shall be maintained and all dead materials shall be replaced by the next growing season. In addition to buffering, fencing may also be required to be provided and maintained.

b. In all buffering situations where buffering impacts a residential view, the owner of single-family residential property shall have "view rights" and may appropriately prune any interfering buffering vegetation.

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. Conformity to the following standards is encouraged, but not required:

Where possible, the project should use indigenous materials of the region, including stone and wood. Buildings should be designed utilizing colors, materials, finishes, and proportions in a manner to produce a coordinated appearance within the development and with the architectural character of the community. Preservation of existing mature trees and vegetation is encouraged. Retention of open spaces that contain wooded areas or open vistas within the development are recommended.

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: BOARD OF ADJUSTMENT**

**Section 601. Establishment of the Zoning Board of Adjustment.**

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 reverse any order, requirement, decision, or determination of the Administrator, or to grant a variance. 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 subsection, 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 602. Appeals.**

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 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,



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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 603. Variances.**

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 Zoning Board of Adjustment and shall be delivered to the office of the Administrator. Upon receipt of an application for a variance, the Board 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 Administrator. 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,

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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 604. Appeals from the Zoning Board of Adjustment.**

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

**ARTICLE 700: ADMINISTRATIVE AND LEGAL PROVISIONS**

**Section 701. Administrator [Ordinance/Zoning Administrator(s)].**

A. Appointment and Removal. The Village Council shall, by a majority vote, appoint an 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 this Ordinance. With proper notice and at reasonable hours, the Administrator may go onto

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the property and enter any building, structure, or premises to perform the duties imposed by this Ordinance.

C. Issuance of Certificates. The Administrator 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 at the entrance to the Village Hall. The Village Council shall have the authority to appoint a Deputy Administrator, [Deputy Ordinance/Zoning 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 702. Zoning Certificate.**

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 Administrator 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 the Administrator may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this Ordinance.

B. The Administrator 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 the Administrator. If the Administrator 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.

C. 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 703. Certificate of Compliance.**

A. A Certificate of Compliance shall be secured from the Administrator 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 Administrator within 30 days from the completion thereof.

C. The Certificate of Compliance shall certify that the Administrator 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. The Administrator 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 the Zoning Administrator finds that the portion of the building or project may safely be occupied prior to the final completion of the entire building or project. The Administrator may renew the Temporary Certificate of Compliance for additional periods, each period not to exceed six months.

#### **Section 704. Civil Penalties.**

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. that the land, building, structure, sign, or use is in violation of this Ordinance;
2. a description of the violation and citation of the relevant Sections of the Zoning Ordinance;
3. specific measures necessary to remedy the violation;
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 this Zoning Ordinance. The Zoning 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 Zoning 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 705. Schedule of Fines for Civil Penalties.**

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 706. Ordinance Amendments.**

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

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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.

**Section 707. 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.

**Section 708. 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.

**FOREST HILLS VILLAGE COUNCIL**

\_\_\_\_\_  
James W. Wallace, Mayor

ATTEST:

\_\_\_\_\_  
Kolleen Begley, Village Co-Clerk

STATE OF NORTH CAROLINA  
COUNTY OF JACKSON

I, Nola Powell, NOTARY PUBLIC, hereby certify that James Davis, The Mayor of The Village of Forest Hills, and Ruth Roman, The Village Clerk, personally appeared before me this day and acknowledged due execution of the foregoing Zoning Ordinances.

Witnessed by hand and Notarial Seal, the first day of July, 2002.

Nola Powell  
Notary (Seal)

My commission expires Aug. 23, 2009.

**ARTICLE 800: DEFINITIONS.**

**Section 801. 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.”

**Section 802. 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;

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[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 this Ordinance (see definition for Administrator).

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

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.



Rev. 8/2/2004 and 12/4/2006 and 4/6/2010 and March 2011

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.