



# Zoning Ordinance

Ordinance Number 11-04  
Adopted July 21, 2011

## TITLE 14

### ZONING AND LAND USE CONTROL

#### CHAPTER

1. PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BOARD OF ZONING APPEALS.
4. WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.
5. FLOOD HAZARD PREVENTION.

#### CHAPTER 1

#### PLANNING COMMISSION

#### SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Chairperson; rules; appointment.
- 14-104. Adoption of plan.
- 14-105. Compensation.
- 14-106. Plat approval.

#### **14-101 Creation and membership**

Pursuant to the provisions of T.C.A. §§ 6-19-101 and 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; one (1) of these shall be the mayor or a person designated by the mayor and one (1) shall be another member of the board of commissioners selected by the board of commissioners; the other seven (7) shall be appointed by the mayor. All members of the planning commission shall be residents of the city. The seven (7) members appointed by the mayor shall serve terms of three (3) years each. The term of the mayor or designee shall run concurrently with the mayor's term of office. The term of the member selected by the board of commissioners shall run concurrently with his or her term of office or until replacement by the board of commissioners. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor.

### **14-102 Organization, powers, duties, etc**

The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with all applicable provisions of T.C.A. § 13-4-101 et seq. and as set forth in this ordinance.

### **14-103 Chairperson; rules; appointments**

The planning commission shall elect a chairperson from among its appointed members. The term of the chairperson shall be one (1) year with eligibility for reelection. The planning commission shall adopt rules for the transaction of business which shall include, but not be limited to, the selection of additional officers from among its members it deems appropriate to fulfill the organizational needs of the planning commission, the requirements for the planning commission to make findings of fact, statements of material evidence and reasons for its actions as part of each motion or action of the planning commission and the keeping of a record of its resolutions, transactions, motions, actions, and determinations which shall be a public record.

### **14-104 Adoption of plan**

The planning commission shall make and adopt an official general plan for the physical development of the municipality in accordance with T.C.A. § 13-4-201 et seq. The commission may from time to time amend, extend or add to the plan or carry any part of subject matter into greater detail as it may deem appropriate.

### **14-105 Compensation**

No member of the planning commission shall receive any compensation for their services as a commissioner.

### **14-106 Plat approval**

The commission shall approve or disapprove a plat within sixty (60) days after the initial consideration of the plat by the commission meeting in a regularly scheduled session, unless at the end of the sixty-day period there is a holiday or an unexpected interceding event that would close municipal or county offices and thus affect the normal computation of the sixty-day period, in which case the plat shall be approved or disapproved after the interrupted sixty-day period at the next regularly scheduled meeting of the commission; otherwise, the plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the commission's approval may waive the time requirement set in this subsection (a) and consent to an extension or extensions of the applicable time period. When a plat has been filed with the appropriate officials of the planning commission, the plat shall be placed on the agenda of the planning commission

within thirty (30) days of the filing or the next regularly scheduled planning commission meeting after the thirty-day period. The applicant may waive the time frame requirement for the appearance of the plat on the agenda.

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## CHAPTER 2

### ZONING ORDINANCE

#### SECTION

- 14-201 Title and Map
- 14-202 Purpose
- 14-203 Statement of Policy
- 14-204 Applicability
- 14-205 Severability
- 14-206 Purpose
- 14-207 Interpretation
- 14-208 Relationship to other laws and private restrictions
- 14-209 Ordinance provisions do not constitute permit
- 14-210 Provisions are cumulative
- 14-211 Application of regulation
- 14-212 Exceptions, variances and conditional uses
- 14-213 Rules for construction of language
- 14-214 Incorporation of maps
- 14-215 Identification of official zoning map
- 14-216 Replacement of official zoning map
- 14-217 Rules
- 14-218 General district regulations
- 14-219 Use and structure provisions
- 14-220 Bulk, yard, and density regulations
- 14-221 Visibility at intersections
- 14-222 Fences, walls, and hedges
- 14-223 Exception to height regulations
- 14-224 Rear yard abutting a public street
- 14-225 Access to Lots; Private Roads.
- 14-226 Minimum lot area
- 14-227 Corner lots
- 14-228 Reduction in lot area prohibited
- 14-229 Storage or Parking of Heavy Trucks, Trailers, or Major Recreational Equipment
- 14-230 Permissible structures and setback encroachments
- 14-231 Limitations on farming
- 14-232 Accessory uses and structures
- 14-233 Requirements for private swimming pools
- 14-234 Requirements for home occupations
- 14-235 Off-street parking requirements
- 14-236 Development standards for parking lots
- 14-237 Sign regulations
- 14-238 Regulations for steep slope areas
- 14-239 Radnor Lake Natural Area Impact Zone
- 14-240 Opening or extension of streets

- 14-241 Lighting – dark sky regulations
- 14-242 Purpose; Classifications
- 14-243 Nonconforming Uses
- 14-244 Nonconforming Structures
- 14-245 Nonconforming Lots
- 14-246 Enlargement, Expansion, Alteration, or Major Repair
- 14-247 Minor Repairs and Normal Maintenance
- 14-248 Chief enforcing officer
- 14-249 Duties of City Manager
- 14-250 Powers of City Manager regarding issuance of permits
- 14-251 Building permits required
- 14-252 Required plans for building permits
- 14-253 Use and occupancy permit required
- 14-254 Application for use and occupancy permit
- 14-255 Issuance of use and occupancy permit
- 14-256 Records of use and occupancy permits
- 14-257 Final inspection
- 14-258 Remedies and enforcement

#### **14-201 Title and Map**

This chapter shall be known and may be cited as "The Zoning Ordinance of Oak Hill, Tennessee," and the map herein referred to, which is identified by the title, "Official Zoning Map, Oak Hill, Tennessee," and all explanatory matters thereon are hereby adopted and made a part of this chapter. The official zoning map shall be located in the city hall and shall be identified by the signature of the mayor attested by the city recorder. The official zoning map may be amended; provided, however, that, no amendment of the official zoning map shall become effective until after such change and entry has been made on such map and signed by the mayor and attested by the city recorder.

#### **14-202 Purpose**

The zoning regulations and districts as set forth in this chapter have been made in accordance with a zoning plan for the purpose of promoting the health, safety, morals and general welfare of the community. The regulations are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This chapter has been prepared with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

### **14-203 Statement of Policy**

The following policies related to the long-range development of the city are adopted as guides for the direction of this ordinance:

- (a) The City of Oak Hill shall be a residential community;
- (b) Development within the city should occur at low to very low densities in order to preserve an open character, protect tree cover, and protect the natural scenic beauty of the city;
- (c) Steep areas with slopes in excess of fifteen percent (15%) should be protected by prohibiting the removal of native vegetation and carefully locating houses and streets;
- (d) Flood-prone areas should be left as open space in order to reduce damages to property and threats to life;
- (e) The area surrounding the Radnor Lake State Natural Area should be given special protection due to the unique character of the natural area and the potential of land development having an adverse impact on the area.

### **14-204 Applicability**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly or by necessary implication permitted or authorized by this ordinance.

### **14-205 Severability**

- (a) If any court of competent jurisdiction invalidates any provision of this ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this ordinance.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this ordinance to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (c) If any court of competent jurisdiction invalidates any condition attached to the approval of a conditional use application or conditional use review, then such judgment shall not affect any other conditions attached to the same approval that are not specifically included in that judgment.

## POLICY, PURPOSE AND LEGAL STATUS PROVISIONS

### Policy and Purpose

#### 14-206 Purpose

This ordinance is enacted pursuant to Title 13 of the Tennessee Code Annotated for the following purposes:

- (a) To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
- (b) To divide the city into districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land;
- (c) To protect the character and maintain the stability of residential areas within the city, and to promote the orderly and beneficial development of such areas;
- (d) To provide adequate light, air, privacy, and convenience of access to property;
- (e) To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health;
- (f) To establish building lines and the location of buildings within such lines;
- (g) To fix reasonable standards to which buildings or structures shall conform;
- (h) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
- (i) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
- (j) To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles;
- (k) To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;

- (l) To conserve the taxable value of land and buildings throughout the city;
- (m) To provide for the gradual elimination of those uses of land, buildings and structures and of these buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
- (n) To provide for condemnation of such nonconforming buildings and structures and of land as the Board of Commissioners shall determine is necessary or appropriate for the rehabilitation or the area blighted by such buildings or structures;
- (o) To provide protection for the views and natural integrity of the Radnor Lake State Natural Area;
- (p) To define and limit the powers and duties of the administrative officers and bodies as provided herein;
- (q) These general purposes include the specific purposes stated in the various chapters throughout this ordinance.

## Legal Status Provisions

### **14-207 Interpretation**

In the interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

### **14-208 Relationship to other laws and private restrictions**

- (a) Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other law, or ordinance of any kind, the provisions which are more restrictive shall apply.
- (b) This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance to the extent that they are more restrictive shall govern.

### **14-209 Ordinance provisions do not constitute permit**

Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

### **14-210 Provisions are cumulative**

The provisions of this ordinance are cumulative with any additional limitations imposed by all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter appearing in this ordinance.

### **14-211 Application of regulation**

No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the city except as specifically or by necessary implication authorized by this ordinance. Conditional uses are allowed only on permit granted by the Board of Zoning Appeals upon finding that the specified conditions exist.

## **14-212 Exceptions, variances and conditional uses**

Whenever the zoning ordinance in effect at the time of adoption of this ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district, such authorization may be continued, changed, extended, enlarged, or structurally altered only as set forth in the regulations governing nonconforming uses, buildings or structures and lots.

### *14-212.1 Renewals*

Where no limitation of the use was imposed at the time of authorization such use may be continued. Where such use was authorized subject to a term of years, such use may be continued until the expiration of the term, and thereafter the Board of Appeals, Planning Commission, or Board of Commissioners which originally authorized such use may, in appropriate cases, extend the period of continuance for one (1) or more terms of not more than five (5) years each. The Board of Appeals, Planning Commission, or Board of Commissioners may prescribe appropriate conditions and safeguards to minimize adverse effects of such use on the character of the neighborhood.

### *14-212.2 Change of use*

In no event shall such use be changed, and no agency shall be empowered to permit such use to be changed, except to a conforming use or nonconforming use as provided for in the regulations governing nonconforming uses, buildings or structures and lots. However, a change in occupancy or ownership shall not, by itself, constitute a change in use.

## CONSTRUCTION OF LANGUAGE AND DEFINITIONS

### Construction of Language

#### **14-213 Rules for construction of language**

In the construction of this ordinance, the rules and definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise:

- (a) The particular shall control the general.
- (b) The word "shall" is always mandatory and not discretionary.
- (c) The word "may" is permissive.
- (d) The word "lot" shall include the words "place" or "parcel."
- (e) The word "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (f) In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table, the text shall control.
- (g) The word "permitted" or words "permitted as of right" mean permitted without meeting the requirements for a conditional use permit.
- (h) The words "conditionally permitted" or "permitted by conditional use permit" mean permitted subject to the requirements for a conditional use and as permitted by the Board of Zoning Appeals pursuant to § 14-310 et seq.
- (i) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (j) Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
  - (1) "And" indicates that all connected items, conditions, provisions or events shall apply.
  - (2) "Or" indicates that the connected items, conditions, provisions, or events shall apply.

(3) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply individually, but not in combination.

(k) All public officials, bodies, and agencies to which reference is made are those of the City of Oak Hill, Tennessee.

## Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, all terms shall be used as commonly defined, except where they either are specifically defined or used in a context that clearly indicates a different meaning.

*Access* – A private driveway or other point of vehicle access, that intersects or connects to a public street.

*Accessory Use* – A use that is customarily incidental, appropriate, and subordinate to the principal use of land or buildings and is located upon the same lot.

*Accessory Structure* – A structure that is subordinate in use and square footage to a principal structure or permitted use.

*Basement* – A story whose floor is more than twelve inches (12"), but not more than one-half (1/2) of its story height below the average level of the adjoining ground (as distinguished from a "cellar," which is a story more than one-half (1/2) below such level). A basement shall be counted as a story for the purpose of height measurement if subdivided and used for dwelling purposes.

*Building* – A structure with a roof, intended for the shelter or enclosure of persons or property. Where roofed structures are separated from each other by party walls having no openings for passage, each portion so separated shall be considered a separate building.

*Building envelope* – The area of a lot in which building(s) may be located taking into account applicable setbacks and minimum yard requirements.

*Building line* – A line parallel to the right-of-way line at the point of the front yard setback or building façade, whichever is greater.

*Building permit* – A written permit required by this ordinance prior to commencement of certain types of construction.

*Bulk* – Describes the size of buildings or other structures, and their relationship to each other and to open areas and lot lines, and, therefore, includes:

- (a) The size (including height and floor area) of other structures,
- (b) The area of the zoning lot upon which a residential building is located, and the number of dwellings within such buildings in relation to the area of the zoning lot,
- (c) The location of exterior walls of buildings or structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other structures, and
- (d) All open areas relating to buildings or other structures and their relationship thereto.

*Certificate of Occupancy* – The final permit or authorization issued by the city allowing occupancy or use of a building, and certifying that the building has been constructed in accordance with all applicable requirements.

*Church* – A building or buildings where people regularly congregate to participate in or hold religious services, meetings or other similar activities.

*Commercial use* – Any nonresidential use of land engaged in commerce or commercial activity such as wholesale or retail trade or the provision of services.

*Conditional use* – A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or districts but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. For the purposes of this ordinance, conditional uses shall be construed as synonymous with special exceptions as authorized by Tennessee Code Annotated § 13-7-206.

*Construction* – The placing of construction materials in their permanent position, fastened in a permanent manner; actual work in excavation, grading or any land disturbance, or the demolition or removal of an existing structure begun preparatory to rebuilding.

*District* – One (1) or more sections or areas of the City of Oak Hill, for which the regulation governing the height, area, use of buildings and premises, are the same.

*Dwelling* – a structure designed and used primarily for residential human habitation. For the purpose of this chapter, the word “dwelling” shall not include a travel trailer, hotel, motel, dormitory or extended stay hotel.

*Dwelling, one-family* – a residential structure dwelling other than a mobile home, located on a single lot, for occupancy by one family or single housekeeping unit and constructed with no connection by a common wall. The terms, “one-family dwelling,” “single-family dwelling,” “one-family residence,” and “single-family residence,” as used in this ordinance shall be synonymous. A mobile home shall qualify as a one-family dwelling only to the extent as this ordinance is pre-empted by state law.

*Driveway* – Area designated and constructed for vehicular ingress and egress on property and to public street.

*Family* – One or more persons occupying a premises and living as a single, nonprofit, housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity, rooming house, hotel, or other structures designed for transient residence.

(1) A dwelling will be considered a single-family residence only if its permanent occupants are limited to one of the following categories:

- (a) One individual.
- (b) Any number of persons related by blood, marriage, adoption or foster care.
- (c) A group of persons consisting of an individual or any number of persons related by blood, marriage, adoption or foster care, such occupant(s) being referred to as the primary occupant(s) for the purposes of this section; plus no more than one person who is not related to the primary occupant(s); all of whom occupy the dwelling and function as a single housekeeping unit with common kitchen facilities. Providing unrestricted access to the entire dwelling to all occupants; sharing food and other necessities; and sharing household expenses and responsibilities are indications that a group of persons is living as a single housekeeping unit. For purposes of this section, at least one of the primary occupants of a residence must have evidence of a legal right to occupy the property, such as being named on a deed or lease to the property.

Not more than eight (8) unrelated persons with disabilities (as defined by state law and as determined by any duly authorized entity, including governmental agencies or licensed medical practitioners) pursuant to the requirements of T.C.A. § 13-24-102. Such a residence may also be occupied by three additional persons acting as house parents or guardians, who need not be related to each other or to any of the other persons residing in the home.

Notwithstanding the foregoing, a group home operated as a for-profit commercial enterprise shall not be a permitted use within a residential zoning district. As used in this section, “persons having mental illness” does not include: Persons who have a mental illness and, because of such mental illness, pose a likelihood of serious harm as defined in T.C.A. § 33-6-501, or who have been convicted of serious criminal conduct related to such mental illness.

- (2) A person shall be considered to be a permanent occupant of a dwelling for purposes of this section if such person:
  - (a) Occupies a dwelling for more than 21 days within any 12-month period;
  - (b) Registers to vote using the address of a dwelling;
  - (c) Receives mail at a dwelling;
  - (d) Registers a vehicle or applies for a driver’s license using the address of the dwelling; or
  - (d) Is registered to attend school, using the address of the dwelling.
- (3) In addition to the foregoing, the following are not considered to be single-family residences:
  - (a) Boarding houses.
  - (b) Apartment houses.
  - (c) Dwellings in which one or more rooms are rented to unrelated tenants.
  - (d) Dwellings in which separate portions are designated for or used as separate housekeeping units.
  - (e) Structures or portions of structures which are designed or constructed for any of the above purposes; and such structures and uses of structures are explicitly prohibited in each residential zoning district unless otherwise specifically permitted. Notwithstanding the foregoing, single-family residence may include a dwelling which includes separate quarters for persons who are related by blood, marriage or adoption to the primary occupants, provided such quarters are connected by interior passageways to

the other portions of the dwelling, and are not rented to any unrelated tenants or otherwise used in violation of this chapter. If more than one meter is installed for the same type of household utility service, it will be presumed that a structure is not being used as a single-family residence.

*Garage* – A building, outbuilding or accessory structure used primarily for the parking or storage of vehicles.

*Height (of building)* – The vertical distance from the average elevation of the finished grade along the front of the building to the highest point of the roof surface.

*Home Occupation* – A business, profession, occupation, or trade that is conducted within a dwelling for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use.

*Impervious Surface* – Buildings, parking areas, driveways, streets, sidewalks, structures, areas of concrete, asphalt, gravel, or other compacted aggregate, and areas covered by the outdoor storage of goods or materials that do not absorb water.

*Incidental* – Being secondary, accessory, subordinate or ancillary.

*Incidental alterations* –

- (a) Changes or replacements in the nonstructural parts of a building or other structure without limitations to the following examples:
  - (1) Alteration of interior partitions in a nonconforming residential building, provided that no additional dwellings are created;
  - (2) Alterations of interior non-load bearing partitions in all other types of buildings or other structures;
  - (3) Replacement of, or minor changes in capacity of, utility pipes, ducts, or conduits; or
- (b) Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
  - (1) Making windows or doors in exterior walls;
  - (2) Replacement of buildings facades having non-load bearing capacity;

(3) Strengthening the floor load-bearing capacity, in not more than ten percent (10%) of the total floor area, to permit the accommodation of specialized machinery or equipment.

*Landscaping* – The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials, provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects, and similar accessory features may be included as landscaping if integrally designed.

*Lighting, Private* – Exterior lights and lighting fixtures intended to illuminate private on-site parking areas, access drives, and other on-site areas.

*Lot* – A piece or parcel of land occupied, or to be occupied, by one (1) principal building and its accessory buildings, and including the open spaces required in this ordinance.

- (1) *Front Lot Line*. The front lot line is the parcel boundary abutting the public right-of-way.
- (2) *Rear Lot Line*. The lot line opposite and the most distant from the front lot line.
- (3) *Side Lot Line*. Any lot line not a front line or rear lot line shall be termed a side lot line.

*Lot coverage* – The gross area of a lot covered by any impervious surface, including the square footage of the area of land occupied by the ground floor of any building, or other structure including driveways and swimming pools.

*Lot frontage* – The front of a lot shall be construed to be the portion nearest the public right-of-way extending from the front lot line. For the purposes of determining yard requirements on corner lots and through lots, all lines of a lot abutting a public right-of-way shall be considered frontage (or front lot lines).

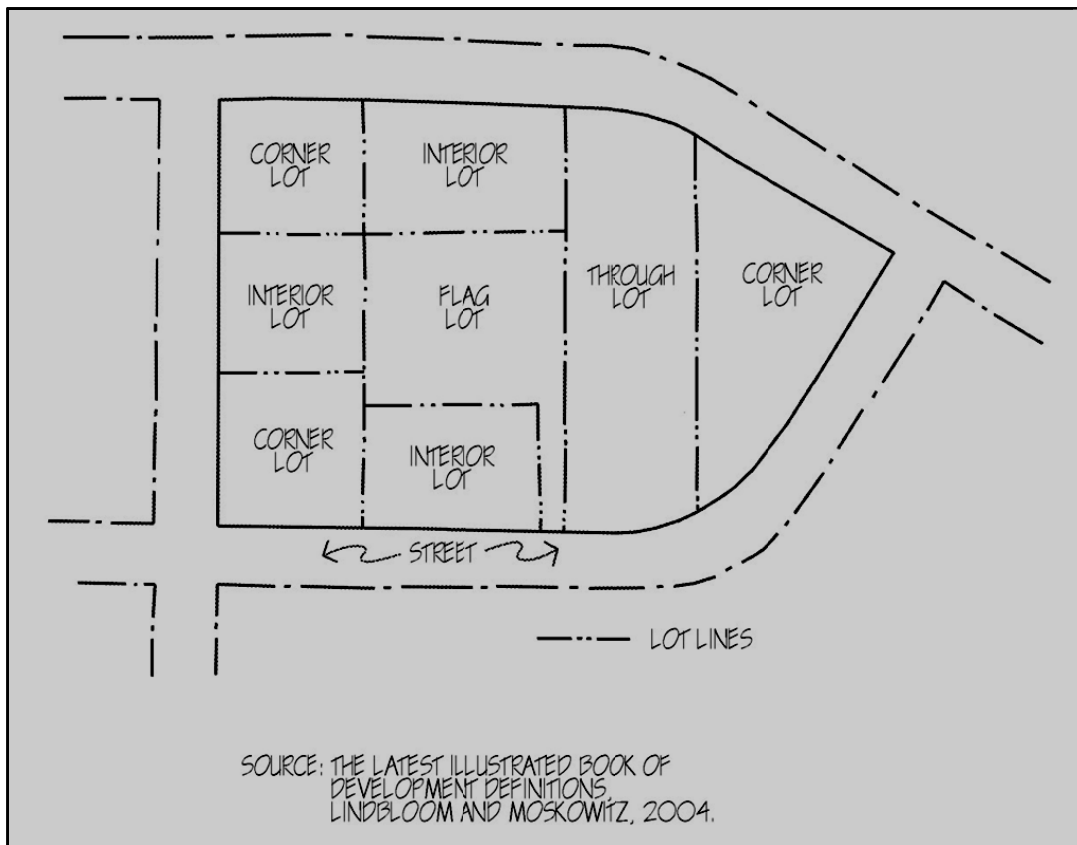
*Lot of record* – A lot or tract of land, described by deed and/or subdivision plat, filed in the Register's Office, Davidson County, Tennessee.

*Lot of Record, Nonconforming* – A lot of record that was legally established before adoption of this ordinance, or any subsequent amendment thereof, that does not comply with the current lot area standards within its zoning district.

*Lot types* – The diagram (Figure 1) which follows illustrates terminology used in this ordinance with reference to corner lots, interior lots, and through lots:

- (1) Corner Lot - A lot located at the intersection of two (2) or more streets (public or private) or on two (2) parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°).
- (2) Interior Lot, defined as a lot other than a corner lot with only one (1) frontage on a right-of-way.
- (3) Through Lot, defined as a lot other than a corner lot with frontage on more than one right-of-way. Through lots abutting two (2) right-of-ways may be referred to as double frontage lots.

Figure 1  
LOT EXAMPLES



*Manufactured Home* – A factory-built, single family structure that meets the Federal Manufactured Home Construction and Safety Standards. This type of structure is also referred to as a modular home and is fixed in place and not considered mobile.

*Mobile Home* – A manufactured residential structure that is built on a chassis designed to be used as a dwelling with or without a permanent foundation.

*Nonconformity* – An existing use, structure, lot of record, or sign that does not conform with one or more provisions of this ordinance.

*Nonconforming Structure* – A structure or portion thereof, not including signs, legally developed before the effective date of this ordinance, or any amendment thereto, but that does not comply with all ordinance requirements.

*Nonconforming use, building/structure, or lot* – The use of a building or land, or building/structure, or lot lawful at the time of the enactment of this ordinance that does not conform with the provisions of this ordinance for the district in which it is located.

*Outdoor Storage* – The keeping in an unroofed area of any goods, junk, material, merchandise in the same place for more than twenty-four (24) hours.

*Pool House (Cabana or Bath House)* – A permitted accessory structure, subject to the requirements of Section 14-232, to be used ancillary to and in conjunction with a private swimming pool, tennis or sport court.

*Private swimming pool* – Any pool, hot tub, spa or receptacle of water intended for swimming, wading, or recreational bathing.

*Public Building or Facility* – Any building, structure, property or other facility that is owned, leased or otherwise used by a governmental body or public entity.

*Public Utility or Facility* – Buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures related to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

*Recreation equipment* – see definition of structure types below.

*Recreation facilities, private* – A facility designed for the conduct of sports and leisure-time activities for the use of the household and guests, and located on a lot as an accessory use to a residence.

*Recreational vehicles* – Any building, structure, or vehicle designed and used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the specifications required for a manufactured home or mobile home.

*Setback line* – A line running parallel to the right-of-way or property lines which establish the minimum distance the principal building must be setback from the right-of-way or property line.

*Story* – A portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it. The following shall be deemed a half (1/2) story:

- (a) A basement or cellar when half or more of the floor to ceiling height (more than half of the floor area) is above grade.
- (b) An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which any exterior walls are not more than two feet (2') above the floor of such story.

*Street* – A public or approved private right-of-way, other than an alley, used for vehicular traffic and providing access to abutting properties.

*Structure* – Anything constructed or erected requiring more or less permanent location on the ground or attachment to something having permanent location on the ground, excluding wheels.

*Subordinate* – Being secondary, ancillary, accessory or derivative.

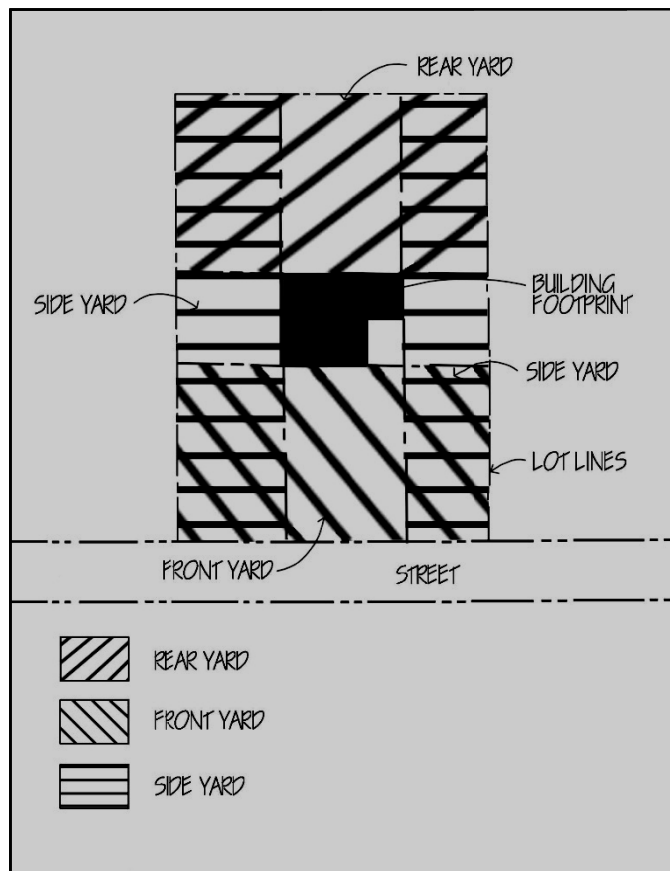
*Temporary Structure* – A structure erected without any foundation or footings and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

*Temporary Use* – A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

*Use* – The performance of a function or operation which constitutes the use of land or a structure.

*Use and occupancy permit* – See *Certificate of Occupancy*

Figure 2  
YARD EXAMPLES



*Yard* – The entire area of the lot including front, side and rear yards. The buildable or usable area of the yard is subject to restrictions on the location and placement of buildings and structures through the establishment of setback lines from the adjoining lots and right-of-way and by the location of public utility and drainage easements. (See illustration above.)

*Yard, front* – The yard extending across the entire width of a lot between the right-of-way line of a public street and the front elevation of a principal structure, including covered porches, canopies and carports.

*Yard, rear* – The yard extending across the entire width of the lot between the rear lot line and the rear elevation of the principal building, including covered porches, canopies and carports.

*Yard, side* – The yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the side elevation of the principal building, including covered porches, canopies and carports.

Figure 3  
CORNER LOT EXAMPLES

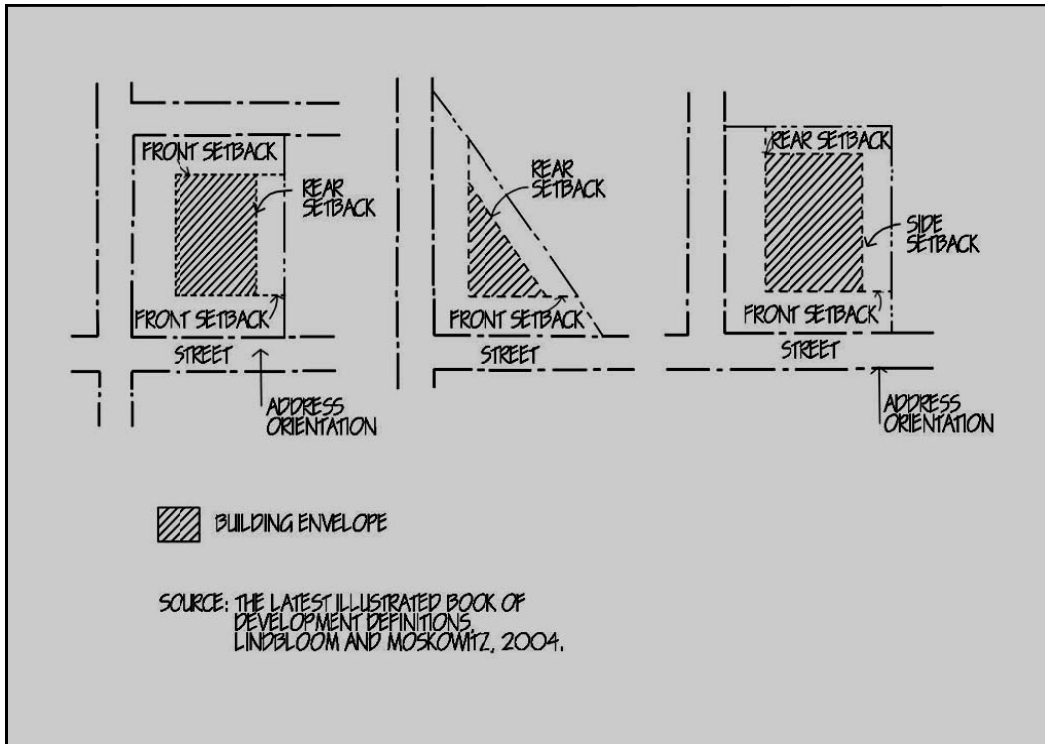
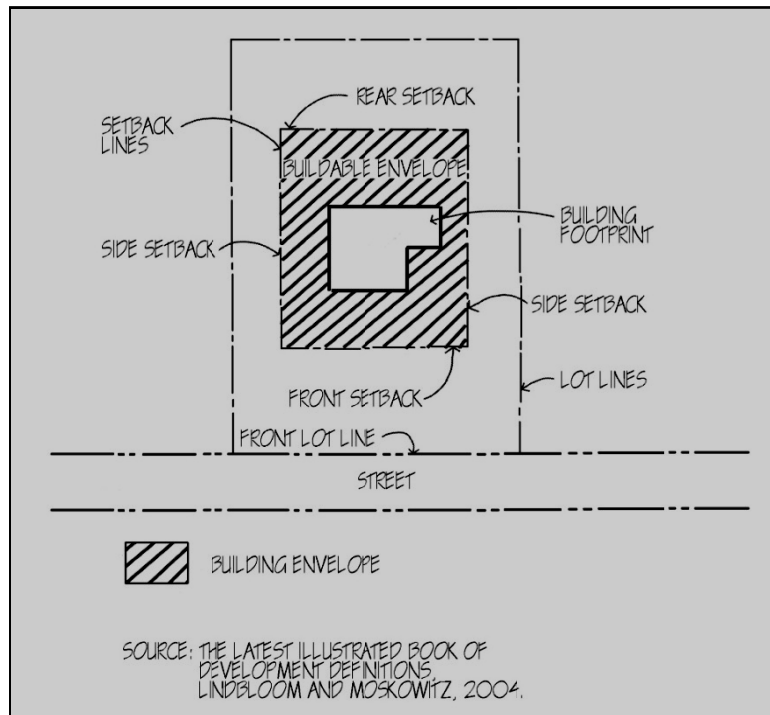


Figure 4  
BUILDING ENVELOPE AND SETBACKS



**ESTABLISHMENT OF DISTRICTS –  
PROVISIONS FOR OFFICIAL ZONING MAP –  
APPLICATION OF DISTRICT REGULATIONS**

Establishment of Districts

In order to implement all purposes and provisions of this ordinance, the following districts are hereby established:

Residential A (10,000 Square Feet) District  
Residential B (20,000 Square Feet) District  
Residential C (1 Acre) District  
Residential D (2 Acres) District  
Residential E (3 Acres) District  
Residential F (4 Acres) District

Provisions for Official Zoning Maps

**14-214 Incorporation of maps**

The boundaries of districts established by this ordinance are shown on the Official Zoning Map, which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments, shall be as much a part of this ordinance as if fully set forth and described herein.

**14-215 Identification of official zoning map**

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Recorder, and designated as the "Zoning Map, Oak Hill, Tennessee."

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the City Manager, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

**14-216 Replacement of official zoning map**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but not such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

All prior Official Zoning Maps or any significant parts thereof shall be preserved, together with all available records pertaining to their adoption or amendment.

### Rules for Interpretation of District Boundaries

#### **14-217 Rules**

When uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following shall apply:

- (a) Boundaries indicated as approximately following the center lines of right-of-ways, highways, or alleys shall be construed to follow such center lines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (d) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (e) Boundaries indicated as parallel to or extensions of features indicated in subsection "a" through "d" above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of map.
- (f) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections "a" through "e" above, the Board of Zoning Appeals shall interpret the district boundaries.

### Application of District Regulations

#### **14-218 General district regulations**

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of use, structure or land, and particularly, except as hereinafter provided:

- (a) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in

conformity with all of the regulations herein specified for the district in which it is located.

- (b) No building or other structure shall hereafter be erected or altered:
  - (1) To exceed the height or bulk,
  - (2) To accommodate or house a greater number of families,
  - (3) To occupy a greater percentage of lot area,
  - (4) To have narrower or smaller rear yards, front yards, side yards or other open space, than herein required; or in any other manner contrary to the provisions of this ordinance.
- (c) Except as otherwise expressly permitted herein, no part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (d) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, except by taking for a public use. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

## DISTRICT REGULATIONS

### Residential Districts

#### **14-219 Use and structure provisions**

The uses and structures indicated herein may be permitted within the various residential districts only in the manner specified herein and subject to any design criteria that apply.

##### *14-219.1 Uses permitted*

###### *(a) Principal permitted use*

The principal permitted use for all residential districts is single-family dwellings. Structures intended for occupancy by more than one family and other multi-family dwellings are not permitted in residential districts. Only one (1) single-family dwelling is permitted on a lot. The principal permitted use and permissible conditional uses are listed in Table I.

###### *(b) Permitted accessory uses and structures*

In addition to single-family dwellings, accessory uses and structures customarily associated with and appropriate, incidental, and subordinate to single-family dwellings may be permitted. The permitted accessory uses and structures are described in § 14-232 of this Article and additional permitted encroachments are described in § 14-230. Home occupations may be permitted if meeting the requirements set out in § 14-234.

##### *14-219.2 Conditional uses and associated structures*

Conditional uses and associated structures permitted subject to the review of the Board of Zoning Appeals and to the standards contained in § 14-310 et seq. are listed in Table I.

##### *14-219.3 Prohibited uses and structures*

Any use or structure not specifically permitted by right or by conditional use as presented in Table I is prohibited.

#### **14-220 Bulk, yard, and density regulations**

The regulations appearing below apply to lots and buildings or other structures located on any lot or portion of a lot including all new development, enlargements, extensions, or conversions. Existing buildings or other structures which do not comply with one or more of the applicable bulk regulations are classified as

nonconforming and are subject to the provisions of Regulations governing nonconforming uses, buildings or structures and lots.

14-220.1 *Minimum lot area*

Within all residential districts, the minimum size lot and width of lot used for residential purposes shall be as established in Table II.

14-220.2 *Maximum lot coverage*

Within all residential districts, the maximum lot coverage by all buildings and impervious surfaces shall not exceed the greater of the percentage of lot area or square footage as established in Table II.

14-220.3 *Maximum permitted height*

No building shall exceed the height requirements as determined in Table II.

14-220.4 *Density regulations*

The maximum residential density permitted on any zone lot shall be controlled by the lot area per dwelling as established in Table II.

14-220.5 *Yard requirements*

Within all residential districts, the minimum yard requirements established in Table II shall apply.

14-220.6 *Average front yard requirement*

The front setback line and minimum front yard shall be determined by the average distance from the front lot line and the front elevation of the principal structure, including covered porches, canopies and carports of the adjacent lots on each side of the subject lot or the distances shown on Table II, whichever is greater; provided that no front yard shall be required which is greater than one hundred fifty feet (150') in depth.

14-220.7 *Lot depth and lot width requirements*

The minimum front lot line and the lot width to depth ratio are listed in Table II of the code. The minimum lot frontage

requirements vary between fifty feet (50') and two-hundred and twenty five feet (225') based upon the minimum lot sizes. The intent of these minimums is to complement the lot width to depth ratios. For example, a lot with a minimum area of ten thousand (10,000) square feet would have a minimum lot frontage of 50 feet, and thereby have a maximum depth two hundred feet (200') to achieve the minimum lot area based upon the four to one (4:1) depth to width ratio.

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**TABLE I**

**PERMITTED AND PERMISSIBLE CONDITIONAL USES**

<i>Uses</i>	<i>Residential Districts</i>					
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>
Single-family dwelling	P	P	P	P	P	P
Public parks & playgrounds	C	C	C	C	C	C
Churches	N	N	C	C	C	C
Public & private schools	N	N	C	C	C	C
Temporary buildings and uses	C	C	C	C	C	C
Public buildings and utilities	C	C	C	C	C	C

*Key*

P-Permitted as of right

C-Permitted by conditional use permit subject to the standards of Article 6

N-Not Permitted

**TABLE II**  
**LOT, YARD, BULK, AND DENSITY REQUIREMENTS**

<i>Requirements</i>	<i>Residential Districts</i>						
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	
Minimum lot area	10,000 sq. ft.	20,000 sq. ft.	1 acre	2 acres	3 acres	4 acres	
Maximum lot coverage The greater of the following square feet or % of actual lot size	5,000 sq. ft. or 50%	9,000 sq. ft. or 45%	15,246 sq. ft. or 35%	26,136 sq. ft. or 30%	26,136 sq. ft. or 20%	26,136 sq. ft. or 15%	
Maximum height	2 ½ stories/ 35'	2 ½ stories/ 35'	2 ½ stories/ 40'	2 ½ stories/ 40'	2 ½ stories/ 50'	2 ½ stories/ 50'	
Minimum yard requirements	Front <sup>1</sup>	30'	40'	75'	75'	100'	150'
	Side	7'	12'	25'	30'	40'	50'
	Rear	30'	40'	60'	70'	100'	100'
Minimum Front Lot Line <sup>2</sup>	50'	50'	100'	150'	175'	225'	
Maximum Lot Depth/Lot Width Ratio <sup>3</sup>	4:1	4:1	4:1	4:1	4:1	4:1	

<sup>1</sup>Whichever is greater from this table or § 14-220.6

<sup>2</sup>Lots on cul-de-sacs, which are the circular portion at the end of a public or private dead end street are exempt from this provision; but must have a minimum front lot line of at least 40 feet measured along the curve at the edge of the right of way; these lots must still achieve the maximum lot depth to lot width ratio.

<sup>3</sup>Lot width is measured at the narrowest point of the respective lot and lot depth is measured at the deepest point of the lot.

## Supplementary District Regulations

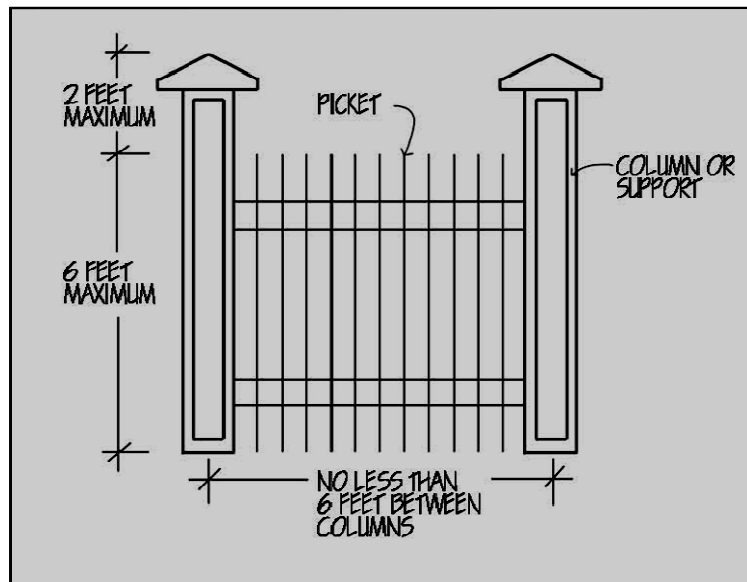
The regulations contained herein are supplemental to the district regulations.

### 14-221 Visibility at intersections

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to be grown in such a manner as obstruct the visibility between a height of two and one-half feet and ten feet (2½' - 10') above the centerline grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said right-of-way lines fifty feet (50') from the point of the intersection, known as the "sight triangle."

### 14-222 Fences, walls, and hedges

Notwithstanding other provisions of this ordinance, fences and walls not more than six feet (6') high may be erected in any yard, but no such fence or wall or hedges or shrubbery shall be erected or grown in violation of § 14-221 above. Column or post finials (including bases) may exceed the maximum fence height by not more than two feet (2') or thirty-three percent (33%) of the post height, whichever is less. In addition, the columns or posts shall be placed no less than six feet (6') on center with the exception of access gates, which may be placed closer together.



### 14-223 Exception to height regulations

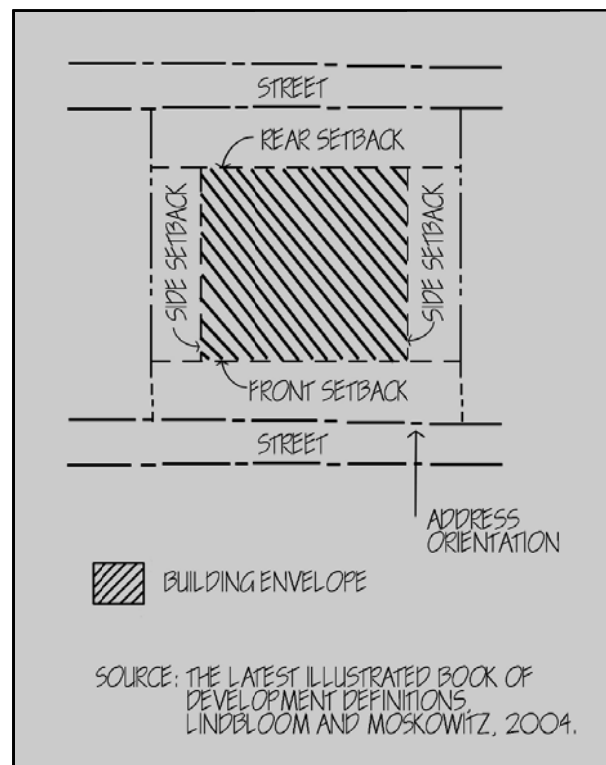
The height limitation contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances not intended for human occupancy placed above the roof level.

However, these elements shall not exceed the height of the structure on which they are attached by more than fifty percent (50%).

This exception shall not apply to light standards for athletic fields or parking lots which may only be permitted by conditional use.

#### 14-224 Rear yard abutting a public street

When the rear yard of a lot abuts a public right-of-way, all structures built in that rear yard shall observe the same setback from the right-of-way line, center line of the street, or property line required for adjacent properties which front on that right-of-way. In addition, any structure located within twenty-five feet (25') of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that right-of-way.



#### 14-225 Access to Lots; Private Roads.

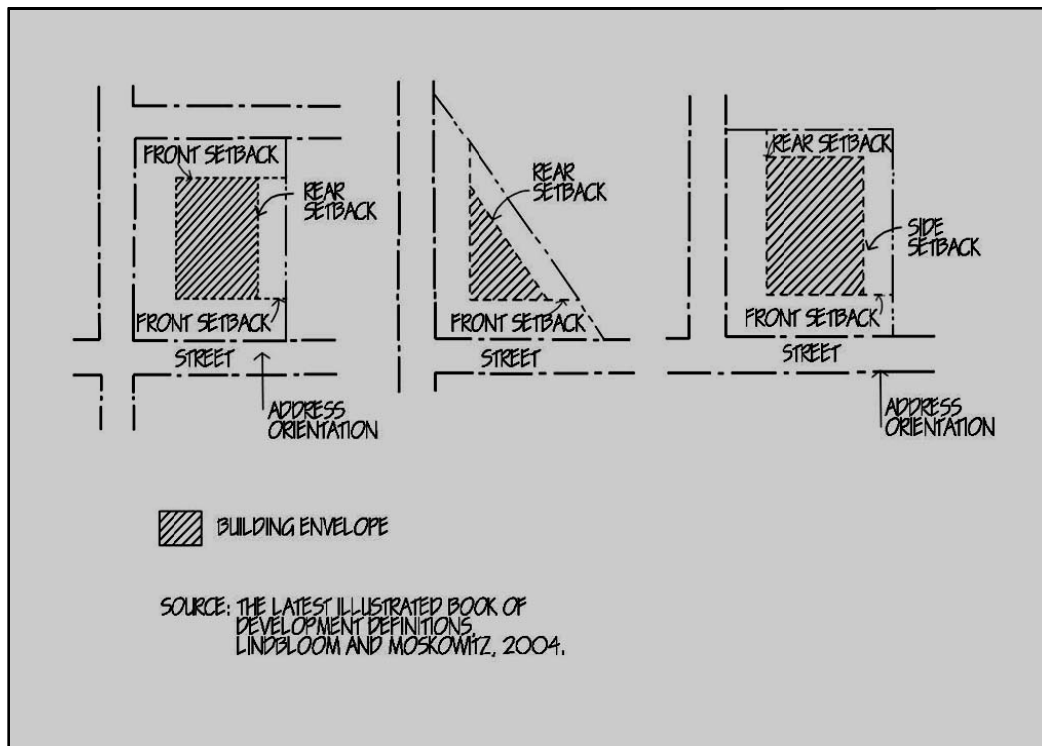
No building shall be erected on any lot that does not abut a public street or a City approved private road for a distance equal to or greater than the applicable minimum front lot line distance for such lot as set forth in Table II. All private roads must be built in accordance with the public roads standards as adopted by the City. All driveways shall be set back at least five feet (5') from the closest property line of an adjacent lot in districts C, D, E, and F.

### 14-226 Minimum lot area

No existing yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. This section shall not apply when a portion of a lot is acquired or dedicated for a public purpose.

### 14-227 Corner lots

The rear yard setback requirements for corner lots shall apply to the portion of the lot which is opposite the front lot line. The front lot line shall be determined from the right of way that is the mailing address of the property, unless an existing building faces the other right-of-way.



### 14-228 Reduction in lot area prohibited

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per dwelling, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired or dedicated for a public purpose.

## 14-229 Storage or Parking of Heavy Trucks, Trailers, or Major Recreational Equipment

- (1) **Intent.** It is the intent of this subsection to prohibit parking of certain vehicles and equipment on public streets and within yards adjacent to public streets in residential districts. It is not the intent of these standards to prevent the occasional or temporary parking of such vehicles or equipment as necessary for the purposes of loading, unloading, or cleaning. However, the use of any vehicles for living, sleeping, or housekeeping purposes is prohibited.
- (2) **Applicability.** The standards in this subsection apply to heavy trucks with more than two (2) axles or that exceed ten-thousand (10,000) pounds of gross vehicle weight, trailers with more than one axle, and to other major recreational equipment, including, but not limited to, boats, campers, recreational vehicles, motor homes, and travel trailers.
- (3) **Standards.**
  - i. **Parking on Public Right-of-Way in Residential Districts Prohibited.** No vehicle described in § 14-229-(2) above may be parked on public streets in a residential district.
  - ii. **Yard Adjacent to Street in Residential Districts.** No vehicle described in § 14-229-(2) above may be parked for longer than twelve (12) hours in any front yard or side yard in a residential district provided, however, that such equipment may park anywhere on residential premises for not to exceed twelve (12) hours during loading or unloading. No such equipment shall be used for living, sleeping, storage, or housekeeping purposes when parked or stored within the City.

## 14-230 Permissible structures and setback encroachments

In all districts, the following structures are permitted in any yard; provided the structures shall not exceed 14' in height and that they shall meet and comply with all other provisions herein, and shall be setback from the property line a minimum of ten feet (10'):

(a) In any yard:

- Arbors and trellises.
- Awnings or canopies projecting from a building wall may encroach over a building setback line not more than six feet (6') and having no supports other than provided by the wall or its integral parts.
- Basketball goals or other similar recreational structures.

- Chimneys projecting from a building wall may encroach not more than three feet (3') over a building setback line.
- Eaves, gutters, or downspouts projecting from a building wall may encroach over a building setback line not more than twenty-four inches (24").
- Fire escape or staircases projecting from a building wall, the riser of which shall be at least fifty percent (50%) open and whose vertical projection downward may encroach over a building setback line not more than three feet (3').
- Fountains.
- Mail boxes; may be provided at the front lot line.
- Open terraces, including natural plant landscaping.
- Retaining walls (no minimum setback requirement).
- Sculpture or other similar objects of art.
- Street furniture such as, but not limited to, benches, drinking fountains, light standards, and directional signs.

(b) The following structures are permitted in any rear yard only:

- Clothes poles or clotheslines, as long as visual screening is provided to adjacent properties.
- Storage buildings, gazebos and / or tree houses.
- Parking areas subject to the requirement of § 14-236.

### **14-231 Limitations on farming**

Farming activities, including agriculture and horticulture, may be conducted except that the following are prohibited activities on any lot within the City of Oak Hill:

Dairies; kennels; rabbit, goat, or animal raising activities; hatching, raising, fattening and/or butchering of chickens, pigeons, turkeys, or other poultry; hog and other livestock feeding; and commercial plant nurseries and greenhouses.

Chickens solely used for egg production are allowed and limited to two (2) chickens per lot.

Horses and ponies may be kept for personal use only provided there shall be a minimum of two (2) acres of fenced and suitable pasture area available for the first horse and not less than one (1) additional acre of fenced and suitable pasture area available for each additional horse. If additional fenced and suitable pasture area is available on an adjacent lot, proof of such land availability shall be required in writing and recorded with the Davidson County Register of Deeds.

#### **14-232 Accessory uses and structures**

It is the intent of this section that all accessory buildings shall be unobtrusive, should not compete visually with the principal structure; and should not detract from the character of the surrounding neighborhood. It is further the intent of this section that accessory buildings should remain subordinate, in terms of mass, size and height, to the principal structure. Any accessory building or structure not specifically permitted shall be prohibited.

##### *a. Accessory uses*

- (1) A garage or carport within the principal structure or as permitted as an accessory structure. Total garage space within the principal structure may be provided for four (4) motor vehicles on any lot in districts A, B and C, and up to eight (8) motor vehicles on any lot in districts D, E and F. No garage or carport shall have openings for ingress or egress of vehicles into and out of the structure where the sum of such openings exceeds 40 feet along the same face of the structure. Not more than one (1) commercial vehicle may be parked on any residential lot. The commercial vehicle shall be parked in a garage or carport at all times.
- (2) Sleeping quarters for servants or employees are only allowed as part of the main dwelling or residence and may not be detached from residence, nor may they be equipped with cooking or housekeeping facilities.

##### *b. Permitted Accessory Structures*

- (1) A private stable with capacity for not more than two (2) horses, provided that there shall be a minimum of two (2) acres of fenced, usable pasture area, for the first horse and one (1) additional acre of fenced, usable pasture area, for the second horse. The stable shall be located within the building envelope and the rear yard. All stables shall not be greater than twenty-five feet (25') in height. The design of the stable shall utilize the same architectural style as the principal structure.

- (2) Private swimming pools subject to further provisions herein. The pool shall be located within the building envelope and in the rear yard.
- (3) A pool house, cabana or bath house (“pool house”) to be used incidental to a swimming pool, tennis or sport court; provided, that the pool or sport court shall be completed prior to or constructed simultaneously with the pool house. A pool house may include bathrooms and dressing rooms, but shall not include a kitchen or cooking facilities. A pool house may also contain a wet bar, including an under-counter refrigerator. A pool house shall not be used as a permanent or temporary sleeping quarters, a guest house or dwelling. A pool house shall not be larger than twenty-five percent (25%) of the square footage of the principal structure, not to exceed twelve hundred (1,200) square feet, and shall not be greater than twenty-five feet (25’) in height. The structure shall be located within the building envelope and in the rear yard. The design and construction of the pool house shall utilize the same architectural style and materials as the principal structure.
- (4) Small accessory buildings for the storage of small garden and household tools, lawn mowers, and other similar equipment (“storage buildings”). Storage buildings shall be one (1) story and no greater than fourteen feet (14’) in height, nor larger than two hundred (200) square feet. Only one storage building may be located on a lot. Storage buildings shall be located in the rear yard and a minimum of ten feet (10’) from any lot line.
- (5) Recreation facilities consisting of tennis courts, basketball courts, and similar play apparatus but not including tree houses, or playhouses exceeding twenty-five (25) square feet, swimming pools or sheds utilized for storage of equipment. These facilities shall be located within the building envelope and the rear yard. Any pole lighting installed for these facilities shall comply with the dark sky requirements in § 14-241.
- (6) Gazebos consisting of a detached, covered, freestanding, open-air structure having a maximum height of fourteen feet (14’) and a maximum area of six hundred (600) square feet designed for recreational use and not for storage or habitation. Gazebos shall be located in the rear yard and a minimum of ten feet (10’) from any lot line.
- (7) Patios consisting of a level surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade with one (1) or more open sides whose principal use shall be for indoor-outdoor recreation. Patios shall be located within the building envelope and in the rear yard.
- (8) Tree houses, playhouses, dog houses consisting of a freestanding structure, shall have a maximum height of twelve feet (12’) and an area

not to exceed one hundred and twenty (120) square feet. These structures shall be located in the rear yard and a minimum of ten feet (10') from any lot line.

- (9) Guard houses located on a private road or entrance to a residential property for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic. The guard house may encroach over the front building setback line but shall be at least forty feet (40') from the public right-of-way or private access easement and shall include a turnaround for vehicles with a minimum radius of twenty feet (20'). The structure shall not exceed seventy-five (75) square feet and shall be designed with the same architectural style and material as the principal structure.
- (10) A detached garage for vehicular parking shall not be used as a permanent or temporary sleeping quarters, a guest house or dwelling. A detached garage shall not include a kitchen, cooking or bathing facilities. Detached garage space may be provided for a maximum of two (2) motor vehicles on any lot, with a maximum size of nine hundred (900) square feet and a maximum of twenty-five feet (25') in height. Any garage space provided in a detached garage shall be considered as part of the total garage space allowed in the principal structure as stated in Section § 14-232 (a). All vehicles shall enter said structure from either the rear yard or side yard in districts D, E, and F. All detached garages shall be located within the building envelope and rear yard. The design of the detached garage shall utilize the same architectural style and material as the principal structure.

No accessory building shall be erected except as specifically permitted herein.

### **14-233 Requirements for private swimming pools**

It shall be unlawful to construct or establish a private swimming pool within the City of Oak Hill as defined without having obtained a permit in the manner prescribed in this ordinance.

Any swimming pool to be constructed or substantially altered after January 1, 2011 shall be required to install a pool alarm and otherwise comply with T.C.A. § 68-14-801 et seq.

#### *14-233.1 Permits*

Application for the construction of a private swimming pool shall be made to the City Manager, or designee, by the owner of the property or by the contractor who will construct said swimming pool. Application shall be accompanied by a set of plans, specifications and plot plans of the property.

The plot plans shall show the accurate location of the proposed swimming pool on the property, together with any proposed bath-houses, cabanas or other facilities, and shall also show the location, height and type of all existing fences or walls on the property, together with the type and height of such fencing or enclosures as may be required by this ordinance to prevent, within reason, any person from gaining access beneath or through said fence when the pool is unguarded or unattended.

A fee shall be paid to the City of Oak Hill for such pool permit, which fee shall be exclusive of the permit fee required for erection of any accessory structure to be used in connection with such swimming pool.

A fee shall be paid to the city for a permit for a private swimming pool as defined herein.

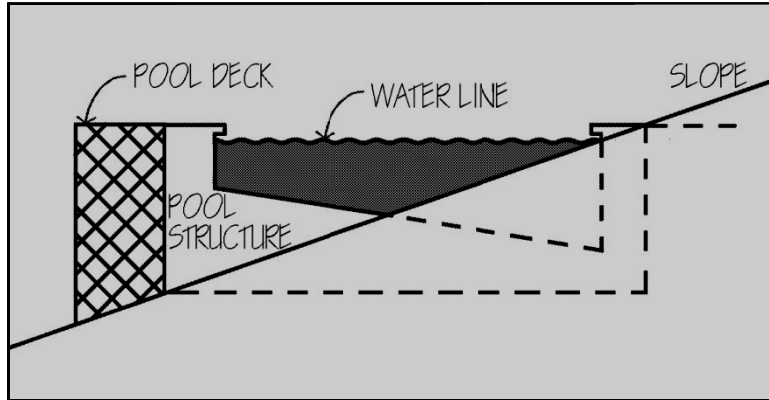
No permit for a private swimming pool shall be issued by the City Manager, or designee, until the plans, specifications and plot plan have been approved by the City of Oak Hill and such approval has been certified on the plans.

Any fees prescribed by this section shall be determined, from time to time, by resolution of the Board of Commissioners.

#### 14-233.2 *Construction and maintenance*

All material used in the construction of pools as herein defined shall be waterproofed and easily cleaned, and shall be such that the pool may be maintained and operated so as to be clean and sanitary at all times. The pool structure, i.e. structure holding the water, shall be constructed from permanent materials such as concrete, granite or fiberglass.

All private swimming pools having a depth of more than thirty inches (30") shall be constructed below the level of the surrounding land; Provided that this requirement shall not apply to a hot tub or spa, designed, installed and used above ground level. For properties with slopes of ten percent (10%) or greater, a portion of the pool enclosure (or structure), no greater than fifty percent (50%), may be built above the ground of the surrounding land (or slope line) as illustrated below. The pool deck is not considered part of the pool enclosure for this calculation.



The owners shall be responsible for maintaining said pool in such condition as to prevent breaks in the pool or water from the pool overflowing into adjacent public or private property.

#### 14-233.3 *Water supply*

There shall be no physical connection between a potable public or private water supply system and such pools at a point below maximum waterline of the pool or to a re-circulating or heating system of said pool.

#### 14-233.4 *Discharge system*

All pools hereafter constructed shall be provided with one (1) drainage outlet not to exceed three inches (3") in diameter extending from the pool to either a brook, storm sewer, lawn-sprinkling system on the premises on which the pool is located, or to an adequate drainage area approved by the City Manager, or designee, and the discharge of water from such pools shall be permitted only following approval by the proper state, county or city officials as each case requires. The City Manager or designee shall inspect the premises on which such pool is proposed to be constructed in order to determine the proper place and type of connection for discharge of the water there from. Approval shall not be given to discharge water at the curb or upon the surface of any street, or onto or across adjacent property unless the owner of the property affected shall give written consent for this to be done and shall agree to waive any claim against the City and the property owners involved for damage to property resulting there from.

#### 14-233.5 *Disinfection*

All private swimming pools shall be treated with chlorine (or other generally appropriate chemicals) in sufficient quantity so that there will be present in the water at all times when the pool is in use a residual of excess chlorine of not less than two hundredth (0.20) parts per million of available free chlorine.

#### 14-233.6 *Bacteriological standards*

Not more than twenty percent (20%) of the samples of water taken from any private swimming pool, when more than twenty (20) samples have been examined, and not more than three (3) samples, when less than twenty (20) samples have been examined, shall contain more than two hundred (200) bacteria per cubic centimeter or shall show positive tests (confirmed) for chloroform in any of five (5) to ten (10) cubic-centimeter portions of water at times when the pool is for use. For the purpose of this section, any number of samplings of water on a single day shall be considered as one (1) sample. The City Manager, or designee, may make arrangements with the Davidson County Health Department to take and analyze water samples for the City of Oak Hill.

#### 14-233.7 *Accessory buildings*

The construction and design of any pool houses, bathhouses, cabanas and other facilities shall be of the same general character and design as the principal residence or building on the property. Locker rooms, pool houses, bathhouses, cabanas, shower rooms, toilets, runways and all other physical facilities or equipment incident to the operation of any private swimming pool shall be kept in a sanitary condition at all times. Refer to § 14-232 for the development standards for accessory structures including those listed in this subsection.

#### 14-233.8 *Location*

No private swimming pool shall be erected in the front yard of any residence or closer to the front of a residence than the rear line of the residence, nor shall any pool be erected nearer to a side or rear property line than is permitted under the Oak Hill Zoning Ordinance for erection of a residence on said lot.

#### 14-233.9 *Fencing*

All private residential swimming pools shall be completely enclosed by a fence, wall, building, or combination thereof, provided that all such barriers shall be not less than four (4) feet in height. All gates allowing access to the pool area from the exterior of the building shall be self-latching and all such latches shall be a minimum of four (4) feet above ground level. Gates leading directly to the area must be kept closed at all times unless premise occupants are in the vicinity of the area and can observe entry to the area through open gates. Barriers, including gates, shall be maintained in good repair at all times.

The enclosed fence required herein shall be a separate fence immediately surrounding the pool area. Any fence along the boundaries of a parcel of real property upon which a pool is located shall not satisfy the requirements of this section.

#### 14-233.10 *Lighting*

No artificial lighting shall be maintained or operated in connection with private swimming pools in such a manner as to be a nuisance or an annoyance to neighboring properties. All lighting shall comply with Section 14-241 *Lighting – dark sky regulations*. No overhead current-carrying electrical conductors shall be within fifteen feet (15') horizontally of a pool. All metal fences, enclosures or railings near or adjacent to private swimming pools, which might become electrically alive as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded.

#### 14-233.11 *Operation and maintenance*

All private swimming pools shall be maintained in a clean and sanitary condition and all equipment shall be maintained in a satisfactory operating condition during periods the pool is in use.

No private swimming pool shall be used, kept, maintained or operated in the city if such use, keeping, maintaining or operating shall be the occasion of any nuisance or shall be dangerous to life or detrimental to health.

#### 14-233.12 *Enforcement*

Every private swimming pool as defined herein constructed or to be constructed in the City of Oak Hill shall at all times comply with the requirements of the Davidson County Board of Health. Any nuisance or hazard to health which may exist or develop in, or in consequence of, or in connection with, any such swimming pools shall be abated and removed by the owner, lessee, or occupant of the premises on which the pool is located within ten (10) days of receipt of notice from the Davidson County Board of Health or from the City Manager, or designee, of Oak Hill.

#### 14-233.13 *Penalties and injunctive relief*

In addition to any applicable penalty provisions under state law or local ordinance, the city shall have the right to enjoin the existence or operation of any swimming pool not constructed or operated in accordance with the provisions of this ordinance.

#### **14-234 Requirements for home occupations**

Any home occupation shall meet the following requirements:

- (a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants, and not more than ten percent (10%) of the floor area of the dwelling shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- (d) No home occupation shall be conducted in any accessory building except that a home occupation may be conducted in a permitted detached garage, provided that the home occupation shall be fully enclosed within the garage and may only be conducted within finished space of such structure, separate from the area designated for vehicle parking and storage;
- (e) There shall be no sales on the premises in connection with such home occupation;
- (f) No traffic shall be generated that exceeds ten (10) vehicle trips per day on any lot, and any need for parking generated by the conduct of such home occupation shall be met off the right-of-way and other than in a required front yard; and
- (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

#### **14-235 Off-street parking requirements**

Off-street parking space, open or enclosed, shall be provided as specified below. These shall be minimum requirements:

Residential uses –	Two (2) spaces per dwelling
Churches –	One (1) space for each three (3) seats in the main assembly hall; each seat shall be measured as eighteen inches (18”) of a bench

Parks & playgrounds –	Ten (10) spaces for each acre of land devoted to recreation, plus one (1) space for each four (4) spectator seats.
Schools –	
Grades 1-7	One (1) space for each four (4) students, teachers, and employees, or one (1) space for each five (5) seats in an auditorium, whichever is greater.
Grades 8-12	One (1) space for each four (4) students, teachers, and employees, or one (1) space for each four (4) seats in the auditorium, whichever is greater. Additional space shall be provided for sports stadiums so that total available off-street parking is equal to one (1) space for four (4) seats.

#### **14-236 Development standards for parking lots**

All parking lots for uses or activities other than residential which require five (5) or more parking spaces shall meet the following development standards:

##### *14-236.1 Design objectives*

Parking lots shall be designed with careful regard given to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design. Parking lots shall not encroach into a required front yard and shall not encroach into a required side or rear yard by more than one-half (1/2) of its depth or width. Parking lots shall be located behind the front façade of the principal structure.

For reasons of use and appearance, it is desirable that parking lots be level or on terraces formed with the slope of the land. Changes in level between such terraces should be formed by retaining walls or landscaped banks.

Efforts shall be made to assure that a parking lot does not dominate a site or building. Such efforts may include depressing the level of the parking lot, construction of earth berms, dividing large lots into smaller sub-lots, and other similar techniques.

##### *14-236.2 Site plan and landscape plan requirements*

Any proposed building or conditional use that requires five (5) or more off-street parking spaces shall be required to provide a site plan and landscape plan – drawn to scale and fully dimensioned showing the location, design,

and layout of such parking facilities. The landscape plan shall be included either as a part of the parking area site plan or as a separate plan for the parking area. Such landscape plan shall show any trees, shrubs, flowers, or ground covers together with names of plants; retaining walls or screens; walkways; and traffic barriers.

The site plan and landscape plan shall be attached to the required application, for the respective permit. The site plan and landscape plan must be approved by the Planning Commission prior to issuance of the respective permit.

#### 14-236.3 *Access to the streets*

The entrances and exits of all required permitted accessory off-street parking facilities shall be located not less than fifty feet (50') from the intersection of any two (2) street right-of-way lines. All entrance and exit driveways shall be designed based on traffic volumes and a traffic study and shall be no more than thirty (30) feet wide, excluding the corner radii. All driveways shall be at least five feet (5') from any property line (except the front property line).

#### 14-236.4 *Surfacing*

All off-street parking areas shall be surfaced with asphalt or concrete, and so constructed to provide adequate drainage. For churches, grass parking areas may be approved by the Planning Commission provided the parking areas do not constitute more than twenty-five percent (25%) of the required parking and the grass parking areas are stabilized with a geotechnical earth stabilization material.

#### 14-236.5 *Border barriers*

An off-street parking area shall be provided with a rail, fence, wall, earth berm, curb, or other continuous barrier of a height sufficient to retain all cars completely within the property together with appropriate landscaping, except at exit or access driveways. In addition, screening shall be provided on each side of a parking area as required below.

#### 14-236.6 *Screening*

Surface off-street parking lots with five (5) or more parking spaces shall be screened from adjacent lots by either:

- (a) A strip at least four feet (4') wide, planted with shrubs every three feet (3') on center at least four feet (4') high at the time of planting, and which are of a type which may be expected to form a year-round dense screen at

least six feet (6') high within three years (3), and one (1) tree at least six feet (6') at the time of planting every twenty-five feet (25') on center or

- (b) A wall or barrier or uniformly painted fence at least six feet (6') in height. Such wall, barrier, or fence may be opaque or perforated provided that not more than fifty percent (50%) of the fence is open.

In addition such screening:

- Shall be maintained in good condition at all times,
- Shall not be placed within fifteen feet (15') of a vehicular entrances and exits,
- Shall have no signs hung or attached thereto other than those permitted signs for parking areas as specified in this ordinance, and
- Shall not obstruct visibility of motorists at street intersections.

#### 14-236.7 *Parking lot landscaping*

Off-street parking lots containing at least twelve (12) interior parking spaces shall contain landscape areas. The total size of such landscaped areas shall be equal to ten (10) square feet for each parking space and shall be provided within the interior of an off-street parking area. Landscape areas shall be a minimum of seventy-five (75) square feet and shall contain at least one (1) shade or flowering tree for each one hundred (100) square feet of required landscaped area. A minimum of seventy-five percent (75%) of all trees that are required to be planted within the interior of an off-street parking area shall be shade trees. The shade trees shall be located in such a manner to produce maximum overhead canopy for the vehicles. All parking lot landscaped areas shall be planted with grass, ground cover, shrubbery, or other suitable live plant material. Parking lot landscaped areas shall be designed, planted, and maintained to permit clear vision between the height of two (2) feet and eight (8) feet above grade; however, this requirement shall not apply where the lack of clear vision is not deemed to be a safety hazard. Terminal islands, interior islands and divider medians should be designed to retain maximum water in the turf areas.

#### 14-236.8 *Parking stalls and maneuvering space*

The minimum size of each parking space shall be nine feet by eighteen feet (9' x 18').

The minimum width of driveways within the parking lot for maneuvering to and from parking stalls shall be as follows:

- 90 degree parking – 25 feet
- 60 degree parking – 20 feet
- 45 degree parking – 20 feet
- 30 degree parking – 12 feet

#### 14-236.9 *Disabled parking space requirements*

Disabled parking spaces shall be provided for all non-residential uses in conformance with the Americans with Disabilities Act (ADA) and applicable state legislation and building codes.

### **14-237 Sign regulations**

See Ordinance No. 10-03; Part 121 “Billboards and Signs” of the Oak Hill Municipal Code.

### **14-238 Regulations for steep slope areas**

It is a substantiated fact that areas of steep slopes, when developed into buildings and streets, present a significant threat of landslides or soil movement. This generally occurs on slopes exceeding fifteen to twenty (15-20%) percent grade. (See: *Landslides in the Nashville, Tennessee Area-Winter 1975*, Robert A. Miller and John D. Wiethe, Tennessee Division of Geology, 1975) Oak Hill contains many such areas. Therefore, it is the policy of the City of Oak Hill to protect life and property by requiring special review procedures for construction on any area of fifteen percent (15%) or greater slopes. The applicant shall pay, as adopted by Board of Commissioners resolution, for review by the Planning Commission for steep slopes or in connection with the Radnor Lake Impact Ordinance. The following regulations shall apply:

#### 14-238.1 *Site plan required*

No building permit shall be issued for construction on any area of 15% or greater slopes until a site plan meeting the following requirements has been approved by the Planning Commission. Said site plan shall show:

- (a) The exact size, shape, and location of the lot, and the existing drainage pattern,
- (b) The proposed location of all buildings, driveways, drainage ways, and utilities,

- (c) Contours at vertical intervals of no more than five feet (5') taken from aerial photography or field survey,
- (d) The extent of natural tree cover and vegetation,
- (e) The location of any on-site soil absorption sewage disposal systems,
- (f) The type and location of erosion control methodology,
- (g) The location and extent of colluvial soil areas as determined by soil test borings,
- (h) The engineer's stamp that prepared the plan,
- (i) Certification as to the stability of the structures and slope and compliance with sound construction methods for areas with steep slopes and landslide problems by a registered geotechnical engineer. Said engineer shall also certify such features after completion of construction prior to issuance of the certificate of occupancy,
- (j) When the Planning Commission determines that additional information is required, an additional soils or geotechnical engineer may be employed to be funded by the developer. The Planning Commission may then require additional standards for development of the lot or tract if substantiated by the facts.

#### 14-238.2 *Development standards*

The following standards shall be used as a guide in determining the suitability of the construction proposed for the particular site in question. The engineer's certification required in § 14-238.1 above shall address these standards:

- (a) Natural vegetation shall be preserved to the maximum extent possible. Existing vegetation on slopes fifteen percent (15%) or greater shall not be removed except as approved by the Planning Commission. Any grass areas shall be sodded,
- (b) Natural drainage ways and systems shall be maintained, except that surface water may be diverted around a house or slope area to a natural drain using acceptable construction techniques,
- (c) Development shall require a minimum of two (2) acres of land per parcel. The Planning Commission may require additional acreage when justified by the soil tests and/or slope of the site and limit development to a maximum of ten percent (10%) of the lot,

- (d) Off-road vehicles shall be prohibited from all such areas and may not be operated off streets and driveways,
- (e) Operations that increase loads, reduce slope support, and cause instability of the slope shall be prohibited to the maximum extent possible which will permit reasonable development of the site. These include filling, irrigation systems, accessory buildings, and on-site soil absorption sewage disposal systems,
- (f) Where sanitary sewers are not available, any on-site sewage disposal system shall be shown on the site plan and located to avoid slide prone areas. Said system shall be approved by the County Health Department prior to the Planning Commission's review taking into account these requirements,
- (g) Erosion control measures shall be employed to prevent all soil material from leaving the site. Additionally, soil from excavation on the site shall not be deposited as fill on a potential slide area. Additionally, all aspects of the Metropolitan Nashville Storm Water Management Ordinance shall apply,
- (h) No construction, including for roads which would cut the toe of the slope shall be permitted, except as approved as a part of a soil stabilization plan submitted by a licensed geotechnical engineer on behalf of developer.

#### **14-239 Radnor Lake Natural Area Impact Zone**

The Radnor Lake State Natural Area is identified as a unique natural resource for the use and enjoyment of the citizens of Oak Hill and the larger metropolitan area and is worthy of special protection. Therefore, the Radnor Lake Natural Area Impact Zone is hereby recognized and established as a part of this ordinance. The Radnor Lake Natural Area Impact Zone ("impact zone") includes all areas determined as having a visual and/or watershed impact on the natural area and is delineated on the City Zoning Map. Said map is adopted by reference and available in the office of the City Manager. The applicant shall pay, as adopted by Board of Commissioners resolution, for review by the Planning Commission for the Radnor Lake Impact Ordinance or in connection with the steep slope ordinance.

##### *14-239.1 Site plan required*

No building permit shall be issued for any lot in the impact zone until a site plan meeting the following requirements has been approved by the Planning Commission. Said site plan shall show:

- (a) The exact size, shape, and location of the lot,

- (b) The proposed location of all buildings, driveways, and drainage ways,
- (c) The type and location of erosion control methodology,
- (d) Contours at vertical intervals of no more than five feet (5'),
- (e) The extent of natural tree cover and vegetation,
- (f) The location of any on-site sewage disposal system,
- (g) The exact area where any natural vegetation is proposed to be removed,
- (h) The size, type, and height of all buildings proposed to be constructed.

#### 14-239.2 *Development standards*

The following standards shall be used as a guide for builders, developers, property owners, and the Planning Commission in minimizing the impact on the natural area:

- (a) The clearing of trees and vegetation shall be limited to the area required for driveways, turnarounds, the house site, and a reasonable area around the house for landscaping purposes for all areas within the Radnor Lake Natural Area Impact Zone. The intent here is to limit visibility from the natural area to any structure,
- (b) The site for the house shall be situated so that ridgelines and down slopes to the natural area are avoided to the maximum extent possible,
- (c) Erosion control measures shall be employed to prevent all soil material from leaving the site. Additionally, all aspects of the Metropolitan Nashville Storm Water Management Ordinance shall apply as appropriate,
- (d) The maximum height of any building shall not extend more than forty feet (40') above the ground level at any point along the front of the lot.

#### 14-239.3 *Subdivision review requirements*

Any development occurring within the Radnor Lake Impact Zone which is a subdivision as defined by the Oak Hill Subdivision Regulations shall be required to observe the following provisions, which are supplemental to the other regulations:

- (a) Road locations shall be situated so as to minimize to the maximum extent possible any visibility from the lake or trails.
- (b) Erosion control measures shall be employed to prevent all soil materials from entering the natural or man-made drainage ways which are located within the Radnor Lake watershed. This shall be required as a part of the preliminary plat approval process, and certification as to the effectiveness of the erosion control measures shall be required of the design engineer.
- (c) Cutting trees and removal of the natural vegetation shall be discouraged and limited to the subdivision roadways and required slopes. Individual lots shall be subject to the requirements in § 14-239.2 above.

#### **14-240 Opening or extension of streets**

No public street, alley, roadway or right-of-way shall be opened, extended, blockaded, accessed or otherwise changed except upon approval of the Planning Commission except as otherwise provided as a temporary measure and approved by the City Manager or designee.

#### **14-241 Lighting – dark sky regulations**

##### *14-241.1 Purpose*

- Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night;
- Curtail and reverse any degradation of the nighttime visual environment and the night sky;
- Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary;
- Conserve energy and resources to the greatest extent possible;
- Help protect the natural environment from the damaging effects of night lighting.

##### *14-241.2 Lighting Fixtures*

All outdoor lighting fixtures (luminaires) shall be installed in conformance with this Regulation and with the provisions of the Building Code, and the Electrical Code, as applicable and under permit and inspection, if such is required. Lighting attached to

single-family home structures shall not exceed the height of the eave. Residential pole height restrictions can be considered to control light trespass onto adjacent properties.

#### 14-241.3 *Lighting Standards*

- (1) Maximum Lamp Wattage and Required Luminaire or Lamp Shielding: All lighting installations shall be designed and installed to be fully shielded (full cutoff), except as in exceptions below, and shall have a maximum lamp wattage of one hundred (100) watts incandescent, and twenty-six (26) watts compact fluorescent for residential lighting (or approximately one thousand and six hundred (1,600) lumens).
- (2) Light shall be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.
- (3) All site lighting shall be shielded so that substantially all directly emitted light falls within the property line. No illumination in excess of one-half foot candle shall be permitted across the boundary of any adjacent residential property or a public right-of-way.
- (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. Lighting prohibited by this provision shall include, but not be limited to any light that may be confused with or construed as a traffic-control device.

#### 14-241.4 *Lighting that is exempt from these regulations*

- (1) Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- (2) Exit signs and other illumination required by building codes.
- (3) Lighting for stairs and ramps, as required by the building code.
- (4) Holiday and temporary lighting (less than thirty days use in any one year).
- (5) Recreation facility lighting; only with permit from the City recognizing that steps have been taken to minimize glare and light trespass, and utilize sensible curfews.

- (6) Low voltage landscape lighting, but such lighting shall be shielded in such a way as to eliminate glare and light trespass.

14-241.4 *Illumination of Outdoor Sports Fields, Courts, and Performance Areas*

In addition to the requirements above, the lighting of outdoor sports fields, courts, and performance areas shall comply with the following standards:

- (1) All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and
- (2) The lighting system for any game or event shall not be operated when such fields, courts or areas are not being used, and in no event between the hours of 11:00 p.m. and 6:00 a.m.

**REGULATIONS GOVERNING  
NONCONFORMING USES, BUILDINGS  
OR STRUCTURES AND LOTS (NONCONFORMITIES)**

Nonconformities

**14-242 Purpose; Classifications.**

In the provisions established by this ordinance, there exist uses of land, buildings, structures, lots of record and signs that were lawfully established before this ordinance was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, buildings, structures, lots, and signs that do not conform to the provisions of this ordinance, or any amendments thereto. Nonconformities are classified as either: (1) nonconforming uses, (2) nonconforming buildings or structures, or (3) nonconforming lots. Under certain circumstances more than one of the above classifications may apply. Nonconformities are allowed to continue, expand and reconstruct in accordance with the requirements of this section. The burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.

**14-243 Nonconforming Uses.**

Nonconforming uses may be continued subject to the following:

- (a) A nonconforming use may be changed to a conforming use in accordance with the requirements in this ordinance, but in no event shall a nonconforming use be converted to another nonconforming use or replace an abandoned or discontinued nonconforming use. If a nonconforming use is changed to or replaced by a conforming use, the prior nonconforming use shall be prohibited.
- (b) If a nonconforming use is abandoned or discontinued for a continuous period of one (1) year, the nonconforming use shall be prohibited. Operation of only an accessory use to the principal nonconforming use during the time of abandonment or discontinuance of the nonconforming use shall not constitute continuation of the principal nonconforming use.
- (c) A nonconforming use or structure housing a nonconforming use shall not be expanded in area, extended, enlarged, or altered except as expressly permitted herein.
- (d) A nonconforming use damaged by casualty may be continued provided that the use has not been discontinued or abandoned.

#### **14-244 Nonconforming Structures.**

Nonconforming structures may be allowed to continue and remain and be used subject to the following:

- (a) Where a nonconforming structure houses a nonconforming use, the regulations for nonconforming structures and nonconforming uses shall both apply. In case of conflict, the rules for nonconforming uses shall prevail.
- (b) A nonconforming structure may continue as it existed when it became nonconforming, as long as it is maintained in its then-structural condition. Nonconforming structures housing a nonconforming use, and nonconforming structures housing a conforming use, may be expanded or redeveloped in accordance with subsection 14-246, Enlargement, Expansion, Alteration, or Major Repair, but in no event shall a nonconforming structure be enlarged, expanded, or altered in a way that increases the degree of nonconformity. (For example, a structure that has a five-foot side yard setback where the ordinance requires a ten-foot side yard setback cannot be enlarged so as to further encroach into the side yard setback.)
- (c) Governmental acquisition of a portion of a lot for public purpose that results in reduction in a lot size or that creates an encroachment of a setback line by an existing structure shall not render the structure nonconforming.
- (d) A nonconforming structure damaged by casualty shall not be restored to its condition prior to casualty, and shall meet all provisions of this ordinance, unless the necessary variances or modification of standards are obtained.

#### **14-245 Nonconforming Lots.**

No use or structure shall be established on a lot of record that does not conform to the standards established in this ordinance, except in accordance with this subsection.

- (a) This subsection shall not be construed to prohibit the development of any non-conforming lot of record prior to the effective date of this ordinance provided the development conforms to all other requirements of the ordinance.
- (b) Governmental acquisition of a portion of a lot for a public purpose that results in a reduction in lot width and/or lot area below that required by this ordinance shall not render the lot nonconforming.

#### **14-246 Enlargement, Expansion, Alteration, or Major Repair.**

In addition to the ability to continue, undertake minor repairs, or perform routine maintenance, nonconforming uses or structures may also add additional facilities, expand existing building footprints, or destroy and reconstruct all or a portion of the nonconformity only as permitted within this subsection. An applicant proposing to enlarge, expand, alter or make major repairs to a nonconforming use or structure shall submit a proposed site plan to the Planning Commission for review. The Planning Commission shall not approve the proposed activity unless it finds that the proposed enlargement, expansion, alteration, conversion, or major repair meets the following standards:

- (a) The nonconforming use has remained in continuous operation and has not been abandoned;
- (b) The nonconforming use is not changing to another nonconforming use;
- (c) The nonconformity is not expanding through the acquisition of additional land; and
- (d) The enlarged, expanded, altered, or converted portion of the nonconformity complies with all of the applicable district regulations, or has obtained the necessary variances.

#### **14-247 Minor Repairs and Normal Maintenance.**

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, or lots are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming use, structure, or lot. For the purposes of this subsection, “minor repair or normal maintenance” shall mean:

- (a) Maintenance of Safe Condition: Repairs necessary to maintain a nonconforming use, structure or lot in a safe condition;
- (b) Correction of Damage or Deterioration: Repairs necessary to correct any damage or deterioration to the structural soundness or interior appearance of a structure without altering the structure; and
- (c) Maintenance of Land for Safety: Maintenance of lot or site areas to protect against health hazards and to promote the safety of surrounding uses.

## ADMINISTRATION AND ENFORCEMENT

### Appointment and Duties of Chief Enforcing Officer

#### **14-248 Chief enforcing officer**

The administration and enforcement of this ordinance is hereby vested with the City Manager and/or the duly appointed assistants.

#### **14-249 Duties of City Manager**

The City Manager, or designee, shall enforce this ordinance and in furtherance of said authority shall:

- (a) Issue all building permits and make and maintain records thereof,
- (b) Issue all use and occupancy permits and make and maintain records thereof,
- (c) Conduct inspections of buildings, structures, and the use of land to determine compliance with the provisions of this ordinance,
- (d) Maintain permanent and current records of this ordinance and all amendments hereto,
- (e) Provide information to the public as needed,
- (f) Receive, file, and forward all requests for conditional uses, variances, appeals, and interpretations to the Board of Zoning Appeals, Planning Commission, or Board of Commissioners as required in this ordinance.

#### **14-250 Powers of City Manager regarding issuance of permits**

The City Manager, or designee, shall have the power to grant building permits and use and occupancy permits, and make inspections of buildings or premises necessary to enforce this ordinance. It shall be unlawful for the City Manager, or designee, to approve any plan or issue any permits or use and occupancy permits for any excavation or construction until he has inspected such plans in detail and found them to conform to this ordinance.

Under no circumstances is the City Manager, or designee, permitted to make changes in this ordinance or to vary its terms and provisions.

## Building and Use and Occupancy Permits

### **14-251 Building permits required.**

- (a) No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the City Manager, or designee.
- (b) No building permit shall be issued until the applicant agrees in writing to construct and/or make repairs to, at applicant's cost, such off-site improvements incidental thereto as the City Manager, or designee, may require. The applicant may be required to post a bond payable to the city with good and sufficient securities in such amount as the City Manager, or designee, determines will adequately cover the cost of such improvements or repairs.
- (c) A building permit shall expire one (1) year from date of issuance unless construction has commenced and is being diligently pursued at such expiration date at which time an extension may be requested and granted in writing by the City Manager or designee.
- (d) No grading, filling, stripping, excavation, demolition of existing structures or other disturbance to the natural ground covering of the land shall be commenced until a permit for such work has been issued by the City Manager, or designee. If such work is done in connection with the erection of a building or other structure for which a building permit has been issued and said work is also covered by the building permit, then no additional permit is required.

### **14-252 Required plans for building permits**

The City Manager, or designee, shall require that all applications for building permits be accompanied by three (3) copies of the plans, specifications and building elevations. Building elevations shall be provided for all elevation views at a minimum scale of  $\frac{1}{4}'' = 1'$ . Floor plans shall be provided for each floor within the building at a minimum scale of  $\frac{1}{4}'' = 1'$ . Site plans shall be provided at a minimum scale of  $1'' = 20'$  and shall include the following information.

- (a) The actual shape, location, and dimensions of the lot, any easements, all setback lines, and the building envelope:
- (b) The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot;

- (c) The existing and intended use of the lot and of all such buildings or other structures upon it;
- (d) All covenants from the subdivision plan that apply to the lot shall accompany the site plan;
- (e) A description of how unstable soil conditions are to be treated in accordance with these regulations and the final subdivision plat;
- (f) Such other information as may be required to determine whether all applicable provisions of this ordinance are being met.

#### **14-253 Use and occupancy permit required**

No building or addition thereto constructed after the effective date of this ordinance, and no addition to a previously existing building shall be occupied, and no land shall be used for any purpose until a use and occupancy permit has been issued by the City Manager, or designee. No change in a use other than that of a permitted use shall be made until a use and occupancy permit has been issued.

#### **14-254 Application for use and occupancy permit**

Every application for a building permit shall be deemed to be an application for a use and occupancy permit. Every application for a use and occupancy permit for a new use of land where no building permit is required shall be made directly to the City Manager, or designee.

#### **14-255 Issuance of use and occupancy permit**

The following shall apply in the issuance of any use and occupancy permit.

- (a) Permits not to be issued: No use and occupancy permit shall be issued for any building, structure or part for the use of any land which is not in accordance with the provisions of this ordinance.
- (b) Permits for new use of land: Any new use of vacant land or different use of an existing use of land shall first obtain a use and occupancy permit for the new or different use.
- (c) Use and occupancy permits for existing buildings: Use and occupancy permits may be issued for existing buildings, structures or parts thereof, or existing uses of land, if after inspection it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this ordinance.

- (d) Temporary use and occupancy permits: Nothing in this ordinance shall prevent the issuance of a temporary use and occupancy permit for a portion of a building or structure in process of erection or alteration, provided that such temporary permit shall not be effective for a time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.
- (e) Permits for dwelling accessory buildings: Buildings accessory to dwellings shall require separate use and occupancy permits unless included in the use and occupancy permits for the respective dwelling when shown on the site plan and when constructed at the same time as such dwelling.

#### **14-256 Records of use and occupancy permits**

A record of all use and occupancy permits issued shall be kept on file in the office of the City Manager, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

#### **14-257 Final inspection**

No use and occupancy permit for a building, structure or an addition thereto constructed after the effective date of this ordinance shall be issued until construction has been completed and the premises inspected and certified by the City Manager, or designee, to be in conformity with the plans and specifications upon which the building permit was based.

#### Amendments

The Board of Commissioners may, from time to time, amend this ordinance by changing the boundaries of districts or by changing other provisions whenever they find such is necessitated for the public convenience, necessity, or general welfare in accordance with Tennessee Code Annotated, §§ 13-7-203 and 13-7-204.

#### Enforcement

#### **14-258 Remedies and enforcement**

##### *14-258.1 Penalties for violation*

Any person violating any provision of this ordinance or failing to comply with any of its requirements (including violations of conditions established in connection with grants of variances or conditional uses) shall be subject to penalties under the general penalty provisions of the Oak Hill Municipal

Code. Each day a violation continues shall constitute a separate violation, punishable by an additional penalty.

#### 14-258.2 *Remedies*

In addition to the penalties set forth herein, if in the judgment of the City Manager the penalty provision of this ordinance is not an adequate remedy sufficient to protect the public health, safety and welfare or to ensure compliance with the ordinance, he may direct the City Attorney to initiate an action for injunctive relief, a mandamus or other appropriate legal action to prevent such violations. This subsection shall include, but not be limited to, cases where a building or other structure is proposed to be constructed or altered or where a structure or land is or proposed to be used in violation of this ordinance.

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## CHAPTER 3

### BOARD OF ZONING APPEALS

#### SECTION

- 14-301 Creation; Appointment. Terms
- 14-302 Rules of Procedure
- 14-303 Powers
- 14-304 Appeal of Administrative Decisions
- 14-305 Application for variances, notice of hearing, fee
- 14-306 Standards for variances
- 14-307 Nonconformity does not constitute grounds for granting of a variance
- 14-308 Prohibition of use variances
- 14-309 Conditions and restrictions by the Board of Zoning Appeals
- 14-310 Authority
- 14-311 Application for conditional use permit; Fee
- 14-312 Requirements for Conditional Use Permit
- 14-313 General requirements
- 14-314 Specific standards for public schools
- 14-315 Specific standards for private schools
- 14-316 Specific standards for churches
- 14-317 Specific standards for public facilities, including public utility facilities
- 14-318 Site plans for conditional uses
- 14-319 Traffic impact analysis requirements
- 14-320 Approval
- 14-321 Renewal; fee
- 14-322 Modifications

#### **14-301 Creation; Appointment. Terms.**

A Board of Zoning Appeals (BZA) is hereby established in accordance with T.C.A. § 13-7-205. The board of zoning appeals shall consist of three (3) members appointed by and serving at the will of the mayor. The term of membership shall be three (3) years. Vacancies shall be filled for any unexpired term by the mayor.

#### **14-302 Rules of Procedure.**

The Board of Zoning Appeals shall elect a chairman and vice-chairman who shall preside in the chairman's absence. All meetings of the board shall be open to the public. The board shall adopt bylaws and rules of procedure consistent with this ordinance. The City shall attempt to notify all property owners within two-hundred and fifty feet (250') of the boundaries of the subject property at least ten (10) days prior to the hearing at which the application will be considered. The presence of two (2) members of the board shall constitute a quorum and the concurring vote of two (2) members of the board shall be necessary to reverse or modify any order,

requirement or decision of the building inspector or to decide in favor of the appellant on any matter upon which the board is required to pass and to that end the board shall have all the powers of the officer from whom the appeal is taken and it may issue or direct the issuance of a permit.

### **14-303 Powers.**

The Board of Zoning Appeals shall have the following powers:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this chapter.
- (2) *Conditional use permits and review.* To hear and decide applications for conditional use permits (special exceptions) upon which the board of zoning appeals is specifically authorized to pass and to review.
- (3) *Variances.* To hear and decide applications for variance from the terms of this chapter, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the provisions of this chapter was a lot of record; or where by reason of exceptional topographic conditions or other extraordinary or exceptional situations or condition of a piece of property the strict application of the provisions of this chapter would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without detriment to the public good and the intent and purpose of this chapter. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning. In granting a 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 chapter. Before any variance is granted it shall be shown that circumstances are attached to the property which do not generally apply to other property in the neighborhood.
- (4) *Boundary lines.* To interpret the zoning map and decide disputed questions of zoning district boundaries lines.

### **14-304 Appeal of Administrative Decisions.**

- (a) This subsection sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision of the

city manager, building inspector or other administrative official. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by an administrative official of the city charged with the administration or enforcement of this ordinance.

- (b) An Appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination within thirty (30) days of the date of the order, decision, determination, or interpretation with the city manager. Upon receiving the written Appeal of the administrative decision or determination, the city manager shall gather and transmit to the BZA the written Appeal and all papers, documents, and other materials relating to the order, decision, determination, or interpretation that is appealed to the BZA. This material shall constitute the record of the Appeal. The BZA shall review and make a decision on an Appeal in accordance with this ordinance, state law, and the BZA Bylaws.
- (c) An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this ordinance, state law, or the federal or state constitutions.

## Variances

### **14-305 Application for variances, notice of hearing, fee.**

Prior to the submittal of the written variance application, the property owner or designated agent shall meet with the City Manager, or designee, to confirm the required application information and exhibits. A written application for a variance shall be filed with the Board of Zoning Appeals by the property owner or designated agent on forms provided by the executive secretary, and the application shall contain information and exhibits as determined at the pre-application meeting. No more than fifteen (15) business days after the filing of the application, the applicant or designated agent will be notified of the completeness of the application and related information and exhibits. Upon determination of completeness of the application and related information and exhibits, the application will be reviewed by the City Manager, or designee. Within thirty (30) business days of the completeness determination, the City Manager, or designee, shall prepare a report of the findings of the review and schedule the application for the next available Board of Zoning Appeals hearing, unless otherwise withdrawn or postponed by written request by the applicant. The City Manager, or designee, shall publish the notice of the hearing of the Board of Appeals as required by this ordinance.

A fee, adopted by Board of Commissioners' resolution, payable to the city shall be charged to cover review and processing of each application for a variance, except that the fee may be waived by the City Manager or Board of Commissioners for a governmental agency.

### **14-306 Standards for variances.**

The Board of Zoning Appeals shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- (a) The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated;
- (b) The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
- (c) The variance will not authorize activities in a zone district other than those permitted by this ordinance;
- (d) Financial returns only shall not be considered as a basis for granting a variance;

- (e) The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance;
- (f) That granting the variance requested will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same districts;
- (g) The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- (h) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
- (i) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

**14-307 Nonconformity does not constitute grounds for granting of a variance**

Nonconforming uses of lands, structures, or buildings in the same or other districts shall not be considered grounds for the issuance of a variance.

**14-308 Prohibition of use variances**

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

**14-309 Conditions and restrictions by the Board of Zoning Appeals**

The Board of Zoning Appeals may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out above to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this ordinance. The Board of Zoning Appeals may establish expiration dates as a condition or as a part of the variances. Unless specifically established by the Board of Zoning Appeals, all variances for proposed construction shall expire within one (1) year of approval, unless construction is commenced and is being diligently pursued at such expiration date.

## Conditional Use Permits

### **14-310 Authority.**

The Board of Zoning Appeals (“BZA”) may hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by TCA § 13-7-206.

### **14-311 Application for conditional use permit; Fee**

Application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the City Manager or designee on forms provided by the City. All applications shall contain such information and exhibits as may be required for a building permit under § 14-251 et seq, and as is otherwise required for a particular use in this ordinance. Not more than sixty (60) days after filing such application, a hearing shall be held on the application, unless, otherwise, withdrawn or postponed upon written request by the applicant. The City shall publish notice of the hearing as required by this ordinance. Applicants for conditional use permits shall pay the City a fee, in an amount to be determined by resolution of the Board of Commissioners, to defray the cost of review, processing and hearing each application, except that the fee may be waived by the Board of Commissioners for applications submitted by any government agency.

### **14-312 Requirements for Conditional Use Permit.**

General requirements are hereby established which shall apply to all applications for conditional use permits. In addition, certain specific standards listed shall apply for the different allowable uses. The BZA may impose such other conditions and restrictions upon the premises benefitted by a conditional use permit as may be necessary to reduce or minimize the injurious effect of such conditional uses upon and ensure compatibility with surrounding property and to protect the public health, safety and welfare. The BZA may establish dates for the expiration of any conditional use permit as a condition of approval.

### **14-313 General requirements.**

A conditional use permit shall be granted by the BZA only after the applicant has demonstrated, and the BZA has determined, that all of the following required standards are met:

- (a) The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this ordinance. Any accessory use to a conditional use must receive express approval by the BZA;

- (b) The proposed use is so located, designed, and proposed to be operated so as not to endanger the public health, safety and welfare; and
- (c) The proposed use is necessary for the public convenience.

**14-314 Specific standards for public schools.**

- (a) No such facilities shall be permitted unless the lot upon which it is to be located contains the minimum recommended acreage by the State Department of Education, but in no case shall the lot contain less than two hundred, eighty thousand (280,000) square feet. Said lot shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way;
- (b) The traffic generated by such facility can be safely accommodated along the streets giving access to the site. The applicant shall be required to submit a traffic impact study, prepared by a licensed traffic engineer;
- (c) The location and design of such facilities shall not have an adverse effect upon surrounding properties;
- (d) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front yard by no more than thirty percent (30%) of the yard requirement. The parking lots may encroach into the side and rear yards by no more than fifty percent (50%) of the yard requirement;
- (e) All front, side, and rear yards shall be equal to two (2) times the yard requirements for the zoning district in which the public school is to be located;
- (f) The height of all buildings shall not exceed sixty feet (60'); steeples, copulas, and similar architectural treatments may exceed the height of the building by no more than fifty percent (50%) of the height of the primary structure.

**14-315 Specific standards for private schools**

The Board of Commissioners of Oak Hill have determined as a matter of policy that a private school does not make the same contribution to public welfare and are not regulated in the same manner as public schools, and therefore, no private school shall be permitted unless it meets the following requirements in addition to the requirements for public schools and other conditional uses:

- (a) Said school is a nonprofit, educational school holding a general welfare charter from the State of Tennessee;
- (b) Said school is held to be exempt from payment of taxes to the federal government, State of Tennessee, Davidson County and Oak Hill;
- (c) Said school is a grade school divided into successive grades and is similar to and conducted in the manner of a public grade school. However, pre-kindergarten or nursery schools may be permitted as an accessory use when said school meets the requirements of this ordinance;
- (d) Said school is constructed, conducted, maintained and operated in accordance with the requirements of the ordinance as to construction, maintenance, operation, health and safety provisions, etc.;
- (e) No private school conducted as a riding school, swimming school, art school, boarding school, trade school, G-I school, or school of any other kind other than a grade school of the nature herein defined and conducted similar a public school shall be permitted to exist or operate in Oak Hill.
- (f) The site on which the school is located contains a minimum of four (4) acres of usable land for any combination of grades one (1) through eight (8), and eight (8) acres for any combination of grades seven (7) through twelve (12), and ten (10) acres for any twelve (12) grades school. In addition to these basic requirements, there shall be two (2) acres for each fifty (50) pupils of anticipated enrollment, providing that the site shall contain a minimum of two hundred eighty thousand (280,000) square feet. Said site shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way of a major street as shown on the official Street Classification Plan;
- (g) The school and all facilities are connected to the public sewer system;
- (h) All plans and specifications for construction, establishment and operation of a private school shall be approved by the City Manager or designee as a part of the conditional use permit and said plans shall show future expansion, and a map showing the proposed location of the building(s), and the City Manager or designee must approve all preliminary and final plans and specifications, and any change orders or alterations which affect space allotment, structure or health and safety. Where new facilities are to be constructed, the City Manager, or designee shall make such inspection as may be deemed necessary during construction of buildings to determine whether school facilities

are being constructed in conformance with the approved final plans and building codes;

- (i) All buildings shall meet all the requirements and standards for construction, repair and equipment of public school buildings and operation of same established by the Tennessee State Board of Education governing new sites, new building, major repairs and equipment for public schools, including any subsequent amendments to said regulations, and said requirements, rules and regulations are referred to and made a part of this ordinance as fully as though copied herein.

#### **14-316 Specific standards for churches**

- (a) Churches shall not be permitted unless the lot upon which it is to be located contains a minimum of two hundred eighty thousand (280,000) square feet. Said lot shall have a minimum of two hundred eighty feet (280') of frontage on a public right-of-way;
- (b) The location, size, and design of the proposed church facilities shall be situated so that they are compatible with the surrounding area, thus reducing the impact upon such area; all structures shall be required to provide a front, side, and rear yard equivalent to two (2) times the requirement of the zoning district in which the church is proposed;
- (c) Church facilities shall be allowed to be located only on major streets as shown on the official Street Classification Plan;
- (d) All bulk regulations of the district shall be met. Provided, the height of all structures shall not exceed sixty feet (60'). Provided further, steeples, copulas, and similar architectural treatments may exceed the height of the building by no more than fifty percent (50%) of the height of the primary structure. Provided further, that for any church situated upon a lot of at least thirty (30) acres, the following requirements shall apply to each church structure situated more than two-hundred fifty feet (250') from the nearest lot line. The height of steeples, copulas, and similar architectural treatments shall not exceed one hundred twenty feet (120') above the roof of the structure upon which such treatments are built.
- (e) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front yard by no more than thirty percent (30%) of the yard requirement. The parking lots may encroach into the side

and rear yards by no more than fifty percent (50%) of the yard requirement;

- (f) The parking lot for such facilities shall not exceed twenty-five percent (25%) of the total lot area to be utilized.

#### **14-317 Specific standards for public facilities, including public utility facilities.**

All public facilities, including public utility facilities must comply with the following requirements:

- (a) Such facilities are for a public service corporation or for public utility purposes which are necessary for the public necessity, convenience, and welfare;
- (b) Such facilities are located in such a manner that will protect the character of the neighborhood where it is to be situated.
- (c) All bulk regulations of the district shall be met;
- (d) The off-street parking requirements of this ordinance shall apply, unless otherwise approved by the Board of Zoning Appeals;
- (e) The off-street parking requirements set forth in §§ 14-235 and 14-236 can be met. No more than twenty-five percent (25%) of the total parking spaces may be located in the front yard, and the parking lots may encroach into the front yard by no more than thirty percent (30%) of the yard requirement. The parking lots may encroach into the side and rear yards by no more than fifty percent (50%) of the yard requirement.

#### **14-318 Site plans for conditional uses**

Prior to submittal of a conditional use permit application and site plan, the property owner or designated agent shall meet with the City Manager, or designee, for a pre-application meeting to determine the required information and graphics for the site plan including any additional studies which may be required such as a traffic impact study, photometric plan, and/or a specific study to effectively evaluate the potential impacts of the proposed structures and use.

All applications for a conditional use permit shall be accompanied by a site plan and any additional information that may be requested during pre-application meeting with sufficient copies for staff and the Board of Zoning Appeals (BZA). Such site plan shall be a scale drawing that shows the actual

boundary of the site, the shape, size and location of all buildings proposed to be built, the general layout of the parking and driveway areas, the general means proposed for disposal of storm water from the site, the limits of any floodplain, architectural elevations sufficiently detailed to indicate the appearance and scale of the building. The applicant shall also submit a narrative description of the project to enable the BZA to evaluate the potential impact of operations of the facility upon the area in which it is to be located. The BZA may approve the conditional use of the plan as submitted, reject the request for reasons stated, require additional information to enable the BZA to make an informed decision, or include additional requirements in order to receive approval.

After review and approval by the BZA, a site plan meeting the requirements listed below shall be submitted to the Planning Commission for review and approval or denial. The approval of any site plan for a conditional use shall lapse after a period of six (6) months after the date of the action by the Planning Commission if construction has not been initiated, and new submission will be required meeting all zoning requirements including amendments since the original approval. The City Manager, or designee, may grant up to two (2), three (3) month extensions.

All site plans shall be prepared and stamped by registrants of the State of Tennessee who are licensed to practice the particular discipline being prepared (e.g. site layout and drainage by civil engineers, boundary surveys by surveyors, landscape plans by landscape architects). Such site plans shall be accompanied by a "site plan checklist" which is available at the city offices.

All site plans shall indicate:

- (a) The actual shape, location, bearings and dimensions of the lot;
- (b) The shape, size and location of all buildings or other structures to be erected, constructed, altered or moved, and of any building or other structures already on the lot;
- (c) Preliminary, then detailed building plans showing front, rear and side elevations including materials proposed to be used on the building and the percentage of each material used on each elevation;
- (d) Preliminary, then detailed landscaping plans which shall include trees, shrubs, and flowering plants with species, quantities and sizes clearly indicated; also, a lighting plan which shows the photometric data will be provided;

- (e) Existing and proposed contours field run at no greater than two foot (2') intervals based on sea level; cut/fill data should be shown on a chart;
- (f) Location, layout and design of total impervious area square footage for all driveways, walks and parking facilities;
- (g) Locations, use and type of turf of all open space;
- (h) Ground coverage of all buildings, floor area of all floors and building heights;
- (i) Location and sizes of all existing and proposed utilities (storm sewers, sanitary sewers, water mains and fire hydrants);
- (j) Proposed means of surface drainage including spot elevations to assure positive drainage, drainage calculations for the site, capacities of downstream drainage structures that will be affected and storm water detention facilities as needed. (Analyses should be based on the 25-year storm with consideration also being given to the capability of the proposed systems to control the two-year storm);
- (k) Location, type and details of all signs, and any proposed changes;
- (l) Location of all easements, rights-of-way and building and parking setbacks;
- (m) For any site subject to flooding, the limits of floodway and flood fringe areas, the regulatory flood elevation, the regulatory flood protections elevation and the minimum first floor elevation;
- (n) Location and type of temporary erosion control measures;
- (o) Detailed drawings of headwalls, end wall, ditch sections, curbs and pavement sections, retaining walls, and other site features;
- (p) A site data table indicating square footage and percentages of the total area of the building footprint, parking areas, driveways and sidewalks;
- (q) For churches and schools, the site plan shall also indicate any future potential buildings and facilities. This may be represented as a conceptual master plan.

Prior to the issuance of any building permit of any building approved by the conditional use permit, a letter of credit, bond or cash deposit, whichever is required by the city, shall be posted to cover the cost of installing all

landscape materials and all site drainage features. Said bond, letter of credit or cash deposit shall be released upon completion of the improvements, final inspection and issuance of the use and occupancy permit. In the event of default on the project or a stop of construction for a period of time in excess of forty-five (45) days, the City Manager, or designee, may, after notification to the owner and general contractor, utilize the proceeds of the bond, letter of credit or cash deposit to restore the disturbed area of the site to an acceptable condition.

No use and occupancy permit for a building, structure or an addition thereof, as approved in a conditional use permit, constructed after the effective date of this amendment, shall be issued until construction of the building and on-site improvements have been completed and inspected by the City Manager, or designee, and any building inspectors, as appropriate. Additionally, the licensed professional that prepared the plans shall certify to the City Manager, or designee, that the final construction including all site improvements is in conformity with the plans and specifications which were approved and upon which the conditional use permit was based.

If any section, clause, provision, or portion of this ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion, of this ordinance which is not invalid or unconstitutional.

In case of conflict between this ordinance or any part thereof and the whole or part of any existing or future ordinance of the City of Oak Hill, the most restrictive shall apply in all cases.

#### **14-319 Traffic impact analysis requirements**

A proposed conditional use which is required by the City Manager, or designee, to submit a traffic impact analysis must adhere to the following:

A traffic impact analysis methodology meeting with the City Manager, or designee, to determine the traffic impact analysis requirements necessary based upon the scope of the proposed project. The traffic impact analysis requirements may be modified by the City Manager, or designee. At a minimum, the traffic impact analysis will include a project address or project location description, a property control or folio identification number, the project acreage, a list of specific uses, densities, and intensities, any proposed phasing, the owner and agent contact information, and the traffic impact analysis as required:

- (a) The traffic impact analysis shall be certified by a registered professional engineer.

- (b) The traffic impact analysis shall include the following minimum analysis as well as any additional analysis identified at the methodology meeting:
- (1) Trip generation: AM/PM peak hour analysis, internalization, and pass-by capture rates;
  - (2) Trip assignment: may be determined utilizing accepted professional traffic engineering trip assignment, as approved by the City Manager or designee;
  - (3) Access analysis including driveways, turn lanes, and signalized intersections within a half (1/2) mile of the project location;
  - (4) Analysis of all signalized intersections on links that provide direct access to the project site and which have an impact of at least two percent (2%) of the level of service.
  - (5) Other analysis techniques proposed must be substantiated by the applicant and found by the City Manager, or designee, to be acceptable.
  - (6) Peak trip generation and pass-by assumptions may be adjusted if the assumptions are submitted by the applicant and found by the City Manager, or designee, to be acceptable. The applicant may demonstrate that effective measures will be employed that will cause the peak traffic generation and pass-by characteristics of the proposed development to be significantly different than the normal project of the same type on which the peak trip generation and pass-by factors are based.
- (c) A development's impact on the roadway system shall be determined by using the trip generation rates set forth in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE), Washington, D.C., or other professionally accepted trip generation rates. It shall include evaluation for its direct effect on an arterial or collector roadway adjacent to the point(s) of project access.
- (d) For roadways where an applicable traffic count does not exist or a recent count has not been conducted within one year, the applicant must provide a count certified by a registered professional engineer at the applicant's expense.

#### **14-320 Approval.**

If the BZA determines that all applicable requirements of a conditional use permit are met, it shall approve the conditional use permit subject to any additional reasonable restrictions imposed by the BZA as necessary to protect the public health, safety and welfare. If an application for a conditional use permit is approved by the BZA, the applicant may then submit the site plan for review by the Planning Commission within one (1) year of the date of approval by the BZA. Revisions to the site plan not affecting the use of the property, or any conditions imposed by the BZA, may be approved by the Planning Commission.

#### **14-321 Review; fee.**

Beginning January 1, 2012 and every three (3) years thereafter as requested by the City Manager, the property owner or designated agent shall submit a letter to the City Manager, or designee, confirming their compliance with the approved Conditional Use Permit along with the permit review fee payable to the City. The review letter shall indicate any authorized or unauthorized actions by the property owner during the previous three years based on the conditions of the current conditional use permit. Upon receipt of the letter, City Manager or designee will inspect the property, facilities and activities for compliance with the current permit. The City Manager will present the findings to the BZA at the next regularly scheduled meeting. A fee, adopted by Board of Commissioners resolution, payable to the city shall be charged to cover the review process of each conditional use permit, except that the fee may be waived by the City Manager or Board of Commissioners for a governmental agency. The application fee paid for the conditional use permit shall constitute the permit fee for the first three years.

#### **14-322 Modifications.**

A conditional use permit may not be transferred to another owner and no changes or modifications made to the use of the property subject to the conditional use permit without review and approval of the BZA in the same manner as set forth herein for the initial approval. However, the site plan changes not affecting the use of the property shall be reviewed by the Planning Commission and shall not require BZA approval.

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## CHAPTER 4

### WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

#### SECTION

14-401	Purpose
14-402	Definitions
14-403	Applicability
14-404	General requirements
14-405	Conditional use permits
14-406	Removal of abandoned antennas and towers
14-407	Nonconforming uses

#### **14-401 Purpose**

The purpose of this chapter is to establish general guidelines for considering the permitting, placement, and/or modification of wireless communication towers and antennas. The goals of this chapter are to:

- (1) Preserve and protect the residential character of the community;
- (2) Preserve and protect the natural scenic beauty of the community;
- (3) Preserve and protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (4) Require the location of towers exclusively in non-residential areas now being utilized for churches and/or schools;
- (5) Minimize the total number of towers throughout the community;
- (6) Require the joint use of new and existing tower sites as primary options rather than construction of additional single-use towers;
- (7) Require users of towers and antennas to locate them in areas where the adverse impact on the community is minimal;
- (8) Encourage users of towers and antennas to configure them in a way which minimizes the adverse visual impact of such towers and antennas through careful design, siting, landscape screening, and innovative utilization of stealth technology;
- (9) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

- (10) Consider the impact of communications towers upon the public health and safety; and
- (11) Through careful review of requests for siting towers, and through careful engineering of improved tower structures, avoid potential damage to adjacent properties. In furtherance of these goals, the Board of Zoning Appeals shall give due consideration to the City of Oak Hill zoning map, existing land uses, and environmentally sensitive areas when considering proposed sites for the location of towers and antennas.

## **14-402 Definitions**

As used in this chapter, the following terms shall have the meanings set forth below:

- (1) "*Alternative tower structure*" means man-made trees, clock towers, bell steeples, light poles, flag poles and similar alternative-design mounting structures that significantly camouflage or conceal the presence of antennas or towers.
- (2) "*Antenna*" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (3) "*Backhaul network*" means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- (4) "*FAA*" means the Federal Aviation Administration.
- (5) "*FCC*" means the Federal Communications Commission.
- (6) "*Height*" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- (7) "*Tower*" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice tower, guyed towers, or monopole towers. The term includes radio and television transmission tower, microwave towers,

common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support there to.

### **14-403 Applicability**

- (1) *New towers and antennas.* All new towers or antennas in the City of Oak Hill shall be subject to these regulations.
- (2) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance.

### **14-404 General requirements**

- (1) *Location restricted.* Antennas and towers shall be located exclusively in non-residential areas of Oak Hill now being utilized for churches and/or schools.
- (2) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. An existing residential dwelling structure on the same lot shall preclude the installation of any antenna or tower on such lot.
- (3) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with Oak Hill development regulations, including but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control even though the antennas or towers may be located on leased parcels within such lot.
- (4) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the City Manager, or designee, an inventory of all existing towers, antennas, or sites approved for towers or antennas, that are within the jurisdiction of the City of Oak Hill, including specific information about the location, height, and design of each tower.
- (5) *Alternative locations.* Each applicant shall submit to the City Manager, or designee, written evidence that alternative locations have been investigated for all existing towers or structures within one (1) mile of the proposed site. A new tower may be permitted if the applicant demonstrates to the Board of Zoning Appeals that no existing tower or structure can accommodate the applicant's proposed antenna because of any of the following conditions:

- (a) No existing towers or structure are located within the geographic area required to meet the applicant's engineering requirements;
  - (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
  - (c) Existing towers or structures do not have sufficient structural strength to support the applicant's engineering requirements;
  - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower; or
  - (e) Evidence submitted by the applicant that fees, costs, or contractual provisions required to share an existing tower or structure, or to adapt an existing tower or structure for sharing, are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) *Design requirements.* Each applicant shall submit to the City Manager, or designee, design plans for the proposed new tower indicating how it will be built to structurally accommodate additional antennas and related equipment for the applicant and at least two (2) other providers. Said design plans shall utilize available stealth technologies in providing for an alternative tower structure.
- (7) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (8) *State or Federal requirements.* All towers must meet or exceed all current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (9) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local

building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Oak Hill concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (10) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Oak Hill irrespective of municipal and county jurisdiction boundaries.
- (11) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Oak Hill have been obtained and shall file a copy of all required franchises with the city.
- (12) *Public notice.* For purposes of this chapter, any special use request or variance request shall require public notice to all abutting property owners in addition to any notice otherwise required by the zoning ordinance.
- (13) *Signs.* No signs shall be allowed on an antenna or tower.
- (14) All support equipment associated with operation of antennas or towers shall be located in an appropriate underground vault and shall not be visible at the approved tower site.

#### **14-405 Conditional use permits**

- (1) *General.* The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Board of Zoning Appeals:
  - (a) A conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning district classifications.
  - (b) Applications for conditional use permits under this section shall be subject to the procedures and requirements of § 14-310 et seq. except as modified in this part.

- (c) In granting a conditional use permit, the Board of Zoning Appeals may impose special conditions to the extent the Board of Zoning Appeals concludes such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.
- (d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.
  - a. An applicant for a conditional use permit shall submit the information described in this section and a non-refundable fee to reimburse the City of Oak Hill for the costs for reviewing the application.

(2) *Towers.*

- (a) *Information required.* All applicants for a conditional use permit for a tower shall submit the following information;
  - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Board of Zoning Appeals to be necessary to assess compliance with this ordinance.
  - (ii) Legal description of the parent tract and leased parcel (if applicable).
  - (iii) The setback distance between the proposed tower and the nearest property boundaries.
  - (iv) The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s).
  - (v) A detailed landscape plan showing specific landscape materials, buffer areas, and screening.

- (vi) Method of fencing, finished color, description of stealth technology used, and, if applicable, the method of FAA-required illumination.
  - (vii) A description of compliance with all applicable federal, state or local laws.
  - (viii) A notarized statement by the applicant as to whether construction of the subject tower will accommodate co-location of additional antennas for future users.
  - (ix) A detailed description of the inadequacy of existing towers, other structures or alternative technology to provide the services sought to be provided through the use of the proposed new tower.
  - (x) A description of the feasible location(s) of future towers or antennas within the City of Oak Hill based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (b) *Factors considered regarding conditional use permits for towers.* In addition to any standards for consideration of conditional use permit applications pursuant to § 14-310 et seq. of the Zoning Ordinance of the City of Oak Hill, Tennessee, the Board of Zoning Appeals shall consider the following factors in determining whether to issue a conditional use permit:
- (i) Height of proposed tower;
  - (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;
  - (iv) Surrounding topography, and steepness of slopes;
  - (v) Surrounding tree coverage and foliage;
  - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (vii) Proposed ingress and egress locations;

(viii) Availability of suitable existing towers, other structures, or alternative technologies of this ordinance; and

(ix) Proximity of the proposed tower to Radnor Lake property and view shed.

(c) *Availability of suitable existing towers, other structures, or alternative technology.* No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Zoning Appeals that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Board of Zoning Appeals related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of the following:

(i) No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.

(ii) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(iii) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

(iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structure, or the antenna on the existing towers or structure would cause interference with the applicant's proposed antenna.

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

(vi) A demonstration that there are other limiting factors which render existing towers and structures unsuitable.

(vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered

transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(d) *Setbacks.* The following setback requirements shall apply to all proposed towers for which a conditional use permit is required:

- (i) Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line.
- (ii) Guys and accessories must satisfy the minimum zoning district setback requirements.

(e) *Separation.* The following separation requirements shall apply to all towers and antennas for which a conditional use permit is required:

(i) *Separation from off-site uses/designated areas.*

- a. Tower separation shall be measured from the base of the tower to the lot line of the offsite uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- b. Separation requirements for towers shall comply with the minimum standards established in Table 3.1.

Table 3.1: Separation Requirements

Off-site use/designated area	Separation distance
Single-family residential units	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower* whichever is greater
Vacant unplatted residentially zoned lands	200 feet or 300% height of tower whichever is greater
Non-residential conditional uses	200 feet or 300% height of tower, whichever is greater

\*Separation measured from base of tower to closest building setback line.

(ii) *Separation distance between towers.* Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 3.2.

Table 3.2: Existing Towers – Types

Tower Type	Lattice	Guyed	Monopole 75 ft. in height or greater	Monopole less than 75 ft. in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft. in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft. in height	750	750	750	750

- (f) *Security fencing.* Towers shall be enclosed by security fencing six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Board of Zoning Appeals may waive such requirements as it deems appropriate.
- (g) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the Board of Zoning Appeals may waive such requirements if the goals of this ordinance be better served thereby.
  - (i) Tower facilities shall be landscaped with a buffer of evergreen plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  - (ii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient barrier.

#### **14-406 Removal of abandoned antennas and towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Oak Hill notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single antenna or tower, then this provision shall not become effective until all users abandon the tower. (Ord. #98-6, January, 1999)

#### **14-407 Nonconforming uses**

- (1) *Not expansion of nonconforming use.* Towers that are constructed and antennas that are installed, in accordance with the provision of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (2) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

- (3) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a conditional use permit. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § 14-243.

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## CHAPTER 5

### FLOOD HAZARD PREVENTION ORDINANCE

#### SECTION

14-501	Authorization
14-502	Findings of fact
14-503	Purpose
14-504	Objectives
14-505	Definitions
14-506	Application
14-507	Identification of special flood hazard areas
14-508	Development permit
14-509	Compliance
14-510	Abrogation and greater restrictions
14-511	Interpretation
14-512	Warning and disclaimer of liability
14-513	Penalties for violation
14-514	City Manager to administer
14-515	Duties and responsibilities of City Manager
14-516	Permit procedures
14-517	Variance procedures
14-518	General standards
14-519	Specific standards
14-520	Standards for subdivision proposals

Statutory Authorization, Findings of Fact, Purpose and Objectives

#### **14-501 Authorization**

The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-1901, delegated the responsibility of local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City of Oak Hill, Davidson County, Tennessee, does ordain as follows:

#### **14-502 Findings of fact**

- (1) The flood hazard areas of the City of Oak Hill are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed or otherwise protected from flood damage.

#### **14-503 Purpose**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other developments which may increase erosion or flood damage; and,
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

#### **14-504 Objectives**

The objectives of this ordinance are:

- (1) To protect human life and health;
- (2) To minimize expenditures of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; [and] streets and bridges located in floodplains;

- (6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood-blight areas; and
- (7) To ensure that potential home buyers are notified that property is in a flood area.

#### **14-505 Definitions**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- (1) *Appeal* means a request for review of the City Manager's interpretation of any provision of this chapter or a request for a variance.
- (2) *Area of special flood hazard* is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
- (3) *Base flood* means the flood having a one percent (1%) chance of being equaled or exceeded in any given way.
- (4) *Development* means any man-made change to improve or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- (5) *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waves;
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (6) *Flood Hazard Boundary Map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazard have been designated as Zone A.
- (7) *Flood Insurance Rate Map (FIRM)* means an official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

- (8) *Flood insurance study* is the official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the flood hazard boundary/floodway map and the water surface elevation of the base flood.
- (9) *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').
- (10) *Habitable floor* means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."
- (11) *Start of construction* means the first (1st) placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as a dwellings or not as part of the main structure. For a structure without a basement or poured footings, the "start of construction" includes the first (1st) permanent framing or assembly of the structure or any part thereof on its piling or foundation.
- (12) *Structure* means a walled and roofed building that is principally above ground.
- (13) *Substantial improvement* means, for a structure built prior to the enactment of this chapter any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:
- (a) Before the improvement or repair is started; or
  - (b) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "*substantial improvement*" is considered to occur when the first (1st) alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (c) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  - (d) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.
- (14) *Variance* is a grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

## General Provisions

### **14-506 Application**

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Oak Hill.

### **14-507 Basis of Identification of special flood hazard areas**

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Oak Hill, Tennessee," dated October, 1979, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps and any revision thereto, are hereby adopted by reference and declared to be a part of this chapter.

### **14-508 Development permit**

A development permit shall be required in conformance with the provisions of this chapter.

### **14-509 Compliance**

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

### **14-510 Abrogation and greater restrictions**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **14-511 Interpretation**

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

### **14-512 Warning and disclaimer of liability**

The decree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Oak Hill or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### **14-513 Penalties for violation**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00), imprisoned for not more than ten (10) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Oak Hill from taking such other lawful action as is necessary to prevent or remedy any violation.

## **Administration**

### **14-514 City Manager to administer**

The City Manager, or designee, is hereby appointed to administer and implement the provisions of this ordinance.

### **14-515 Duties and responsibilities of City Manager**

Duties of the City Manager, or designee, shall include, but not be limited to:

- (1) Review all development applications to assure that the permit requirements of this chapter have been satisfied.
- (2) Advise applicants that additional federal or state permits maybe required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the Tennessee State Planning Office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- (7) When flood-proofing utilized for a particular structure, the City Manager, or designee, shall obtain certification from a registered professional engineer or architect.
- (8) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the City Manager, or designee, shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (9) When base flood elevation data has not been provided in accordance with § 14-507 of this Chapter, then the City Manager, or designee, shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source in order to administer the provisions for flood hazard reduction of this Chapter.
- (10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Manager and shall be open for public inspection.

#### **14-516 Permit procedures**

Application for a development permit shall be made to the City Manager, or designee, on forms furnished by him and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the areas in question; existing or proposed structures; fill; storage of the materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure has been flood-proofed.
- (3) Provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in § 14-519 (2) of this Chapter.
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### **14-517 Variance procedures**

- (1) The Board of Zoning Appeals, as established by the City of Oak Hill, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the City Manager, or designee, in the enforcement or administration of this chapter.
- (3) Any person aggrieved by the decision of the Board of Zoning Appeals, or any taxpayer, may appeal such decision to the chancery or circuit court, as provided in Tennessee Code Annotated § 27-901 et seq.
- (4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remaining of this section.
- (5) In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (a) The danger that materials maybe swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
  - (l) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing (a)-(k) have been fully considered. As the lot size increases beyond the one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter

- (7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. Conditions for variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (b) Variances shall only be issued upon:
    - i. A showing of good and sufficient cause;
    - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation:
  - (d) The City Manager shall maintain the records of appeal actions and report any variances to the Federal Insurance Administration upon request.

#### Provisions for Flood Hazard Reduction

#### **14-518 General standards**

In all areas of special flood hazards the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (7) Any alteration, repair, reconstruction or improvements to a structure on which the start of construction was begun after the effective date of this chapter shall meet the requirements of "new construction" as contained in this chapter.

#### **14-519 Specific standards**

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 14-507, or § 14-515, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in §14-516 (3).
- (3) *Floodways.* Located within areas of special flood hazard established in 14-507 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
  - (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments, unless certification by a registered professional engineer or architect is provided demonstrating

that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

- (b) If 14-519, 3 (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.

#### **14-520 Standards for subdivision proposals**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.